

A SHORT COURSE ON

ISLAMIC LAWS OF INHERITANCE



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Lesson 1

Introduction

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْحَمْدُ لِلَّهِ

اللهم صل على محمد ، وعلى آل محمد وبارك على محمد وعلى آل محمد ، كما صليت ، وباركت

على إبراهيم وآل إبراهيم إنك حميد مجيد

In this lesson a brief introduction about the laws of inheritance, prophet(sas)'s Hadeeth and the Quranic verses are taught.

Learn the Quranic verses by heart and learn the meaning.

It is the only one perfect system of property distribution in the world. No doubt it is from the Creator who knows the best.

In spite of this it is the one which is most neglected by the Muslims.

Property division after a person's death involves the property and the wealth of the person died. Rules have been laid down in Quran and by Prophet's sunnah.

importance

It is very important to distribute the property as per sharia laws in Islam. Punishment for not adhering to rules in property division are grave and serious. At the end of the rules of inheritance verses in surah Al-nisaa Quran says " these are the limits set by

Allah. Whoever obeys Allah and His Messenger will be admitted to paradise....And whoever disobeys Allah and His Messenger, and transgresses His limits will be made to enter into Hell Fire, permanently and he shall have a disgraceful torment."

Punishment for not abiding the rules.

As mentioned earlier it is permanent Hell Fire. As per hadees quoted by AbuHurraira, Prophet(sas) said-A man might perform actions of righteous people for seventy years but when it is time to compile his will commits injustice and because of this he enters the Fire. Similarly a man might perform ill deeds for seventy years but leaves a fair will and thus enters paradise.

Property however small should be divided and given to heirs. The whole property belongs to Allah and it should be divided as per His rules. But man has a strange feeling that it is earned by them, but actually it is given by Allah. Just imagine Allah takes away one's life before he earns any property, or Allah makes him handicapped or makes huge losses to him through calamities then where is your wealth, money or property? We never think of the blessings from Allah. We never thank Him. We try to find some means to escape from giving the property to relatives. Be grateful to Him for the blessings and distribute the property as per His rules.

Property division is based on family ties.

In Islam property division is not based on who is poor or rich, but it is based on blood relations and family ties. Even a rich relative of a poor man as per Islam should get the property if he is eligible. This family system is completely lost these days.

Educate the people.

Our responsibility is to teach the people as per the Prophet's(s.a.s) command. Teach it to the people and do your job. If anybody disobeys and plays false in property division he will bear the punishment as above.

Importance of learning the Islamic Laws of Inheritance

Prophet(s.a.s) sayings

تَعَلَّمُوا الْفَرَائِضَ وَ عَلِّمُوهَا فَإِنَّهُ نِصْفُ الْعِلْمِ وَهُوَ يُنْسَى وَهُوَ أَوَّلُ شَيْءٍ يُنَزَعُ مِنْ أُمَّتِي

Learn the laws of inheritance and teach it the people. It is one half of useful knowledge. It is going to be forgotten and it is the first one to be raised off from my people.

Prophet(S.A.S)

Reported from Abu Huraira r.a. Ibn maja

الْعِلْمُ ثَلَاثَةٌ وَمَا سِوَى ذَلِكَ فَهُوَ فَضْلٌ، آيَةٌ مُحْكَمَةٌ أَوْ سُنَّةٌ قَائِمَةٌ أَوْ فَرِيضَةٌ عَادِلَةٌ

Useful knowledge are three in number. Quranic verses, Prophet's sunnah, law of inheritance

Prophet(S.A.S)

Ibn Ummer reports- Ibn Maja, abu Dawood

تَعَلَّمُوا الْقُرْآنَ وَعَلِّمُوهُ النَّاسَ وَ تَعَلَّمُوا الْفَرَائِضَ وَ عَلِّمُوهَا فَإِنِّي إِمْرُؤٌ مَقْبُوضٌ وَالْعِلْمُ مَرْفُوعٌ وَ

يُوشِكُ أَنْ يَخْتَلِفَ إِسْمَانِ فِي فَرِيضَةٍ وَالْمَسْأَلَةِ فَلَا يَجِدَانِ أَحَدًا يُخْبِرُهُمَا

Learn the Quran and teach it to the people. Learn the laws of inheritance and teach it to the people. I am a human being who is going to die and the knowledge will disappear. A time may come when two people will argue about the property distribution and no one may be there to answer their problems.

Prophet(S.A.S) Ibn Mas'ud reports(Ahmed)

Quranic verses

In the chapter 4 Sura –al Nisa'a

Verses starting from 7 to 14 and verse 176 deal with the inheritance rules

Study with meaning and by heart them.

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ
مِنْهُ أَوْ كَثُرَ نَصِيبًا مَّفْرُوضًا

There is a share for men from what is left by parents and those nearest related, and there is share for women from what is left by parents and nearest related, whether the property be small or large, a decided share

Sura a-nnisa-7

وَإِذَا حَضَرَ الْقِسْمَةَ أُولُو الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينُ فَارْزُقُوهُمْ مِنْهُ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا

But if at the time of division of the property, other relatives , orphans or poor are present feed them out of the property and speak to them words of kindness and justice

Sura a-nnisa-8

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ فَإِنْ كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ
وَإِنْ كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا الشُّدُّسُ مِمَّا تَرَكَ إِنْ كَانَ لَهُ وَلَدٌ فَإِنْ لَمْ يَكُنْ
لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِلْمُتِّ ثُلُثٌ فَإِنْ كَانَ لَهُ إِخْوَةٌ فَلِلْمُتِّ الشُّدُّسُ مِنْ بَعْدِ وَصِيَّتِهِ يُوْصِي بِهِ أَوْ
(دَيْنٌ عَابَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا فَرِيضَةٌ مِّنَ اللَّهِ إِنْ اللَّهُ كَانَ عَلِيمًا حَكِيمًا ۝۱۱)

Allâh commands you as regards your children's (inheritance); to the male, a portion equal to that of two females; if (there are) only daughters, two or more, their share is two thirds of the inheritance; if only one, her share is half. For parents, a sixth share of inheritance to each if the deceased left children; if no children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers or (sisters), the mother has a sixth. (The distribution in all cases is) after the payment of legacies he may have bequeathed or debts. You know not which of them, whether your parents or your children, are nearest to you in benefit, (these fixed shares) are ordained by Allâh. And Allâh is Ever All-Knower, All-Wise.

Sura a-nnisa-11

وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُمْ إِنْ لَمْ يَكُنْ لَهُنَّ وَلَدٌ فَإِنْ كَانَ لَهُنَّ وَلَدٌ فَلَكُمْ الرُّبْعُ مِمَّا تَرَكَنَّ ﴿١٠﴾
 مِنْ بَعْدِ وَصِيَّتِهِ يَوْصِيَنَّ بِهِآ أَوْ دَيْنٍ وَلَهُنَّ الرُّبْعُ مِمَّا تَرَكَتُمْ إِنْ لَمْ يَكُنْ لَكُمْ وَلَدٌ فَإِنْ كَانَ لَكُمْ وَلَدٌ
 فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَتُمْ مِنْ بَعْدِ وَصِيَّتِهِ تَوْصُونَ بِهِآ أَوْ دَيْنٍ وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ
 أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِنْ بَعْدِ
 (وَصِيَّتِهِ يَوْصِي بِهِآ أَوْ دَيْنٍ غَيْرَ مُضَارٍّ وَصِيَّتُهُ مِنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَلِيمٌ ١٢)

In that which your wives leave, your share is a half if they have no child; but if they leave a child, you get a fourth of that which they leave after payment of legacies that they may have bequeathed or debts. In that which you leave, their (your wives) share is a fourth if you leave no child; but if you leave a child, they get an eighth of that which you leave after payment of legacies that you may have bequeathed or debts. If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third; after payment of lagacies he (or she) may have bequeathed or debts, so that no loss is caused (to anyone). This is a Commandment from Allâh; and Allâh is Ever All-Knowing, Most-Forbearing.

Sura a-nnisa-12

تِلْكَ حُدُودُ اللَّهِ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا وَذَلِكَ
 (الْفَوْزُ الْعَظِيمُ ١٣)

These are the limits (set by) Allâh (or ordainments as regards laws of inheritance), and whosoever obeys Allâh and His Messenger (Muhammad SAW) will be admitted to Gardens under which rivers flow (in Paradise), to abide therein, and that will be the great success.

Sura a-nnisa-13

(وَمَنْ يَعِصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ (١٤)

And whosoever disobeys Allâh and His Messenger (Muhammad SAW), and transgresses His limits, He will cast him into the Fire, to abide therein; and he shall have a disgraceful torment.

Sura a-nnisa-14

يَسْتَفْتُونَكَ قُلِ اللَّهُ يُفْتِيكُمْ فِي الْكَلَالَةِ إِنِ امْرُؤٌ هَلَكَ لَيْسَ لَهُ وَلَدٌ وَلَهُ أُخْتٌ فَلَهَا نِصْفُ مَا تَرَكَ وَهُوَ يَرِثُهَا إِنْ لَمْ يَكُنْ لَهَا وَلَدٌ فَإِنْ كَانَتَا أَنْثَتَيْنِ فَلَهُمَا الثُّلُثَانِ مِمَّا تَرَكَ وَإِنْ كَانُوا إِخْوَةً رِجَالًا وَنِسَاءً فَلِلَّذَكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ قُلِ يَبَيِّنُ اللَّهُ لَكُمْ أَنْ تَضِلُّوا وَاللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ (١٧٦)

They ask you for a legal verdict. Say: "Allâh directs (thus) about Al-Kalâlah (those who leave neither descendants nor ascendants as heirs). If it is a man that dies, leaving a sister, but no child, she shall have half the inheritance. If (such a deceased was) a woman, who left no child, her brother takes her inheritance. If there are two sisters, they shall have two-thirds of the inheritance; if there are brothers and sisters, the male will have twice the share of the female. (Thus) does Allâh makes clear to you (His Law) lest you go astray. And Allâh is the All-Knower of everything."

Sura a-nnisa-176

Lesson 2

Quranic verses

In this lesson general things to be known are taught. Understand these.

Overview-things to be learnt

1. Pre-Islamic inheritance
2. Islamic Inheritance-events leading to revelations of Quran
3. Comparative -with other religions
4. Components
5. Eligibility
6. Conditions
7. Obligations
8. Loss of right to inheritance
9. Heirs
10. Order of inheritance
11. Special rules-Awl, Radd
12. Exclusions
13. Work up of a case
14. Waseeyah
15. Special cases

Pre Islamic Arabia

Before Islam only those who fight in battles were entitled for shares. ie;only male relatives were heirs to the property

Quranic revelation changed this and 8 females were included as Fixed heirs.

Adoption

PreIslamic Arabia, adopted children were given inheritance rights and they were called by their adopted father's name.

Zaid b Haris was called Prophet's son.

Islam rejected this by following Quranic verses.

Adoption-sura Al ahzab

مَا جَعَلَ اللَّهُ لِرَجُلٍ مِنْ قَلْبَيْنِ فِي جَوْفِهِ وَمَا جَعَلَ أَرْوَاجَكُمْ لِلآيِ تَظَاهِرُونَ مِنْهُنَّ أُمَّهَاتِكُمْ وَمَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ذَلِكَ قَوْلُكُمْ بِأَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي السَّبِيلَ ﴿٤﴾ ادْعُوهُمْ لِأَبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ فَإِنْ لَمْ تَعْلَمُوا آبَاءَهُمْ فَإِخْوَانُكُمْ فِي الدِّينِ وَمَوَالِيكُمْ وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا ﴿٥﴾

4. God has not made any man two hearts, nor He made your wives whom you divorce by zihar, your mothers., nor has He made your adopted sons your sons. Such is only your speech by your mouth. But God tells you the truth, He shows the right way.

5. Call them by their father's name. That is just in the sight of God, but if you know not their father's names then call them brothers in faith or your moulas. But there is no blame on you if you make a mistake therein. What counts is the intention of your hearts. God is oft Returning Most merciful

Adoption-sura Al ahzab

مَا كَانَ مُحَمَّدٌ أَبَا أَحَدٍ مِنْ رِجَالِكُمْ وَلَكِنْ رَسُولَ اللَّهِ وَخَاتَمَ النَّبِيِّينَ وَكَانَ اللَّهُ بِكُلِّ شَيْءٍ عَلِيمًا ﴿٤٠﴾

40. Muhammed is not the father of any of your men but he is the apostle of God....

Oath Taking

Before revelation of Quran Arabs were taking oaths among friends regarding inheritance.

Islam rejected this but allowed property sharing during the life of a person.

After the death of a person property has to be distributed among relatives and not to be given to others except by way of Waseeyat not exceeding 1/3

Blood Relations -sura Al ahzab-6

النَّبِيِّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ وَأَزْوَاجُهُ أُمَّهَاتُهُمْ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ اللَّهِ مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا كَانَ ذَلِكَ فِي الْكِتَابِ مَسْطُورًا

Al Ahzab 6:Blood relations among each other have close personal ties, in the decree of God than the brother hood of Muhajirs and believers. Nevertheless do ye what is just to your closest friends, such is the writing in the decree of God

Oath taking –sura al Nisaa-33

وَلِكُلٍّ جَعَلْنَا مَوَالِي مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلَ الَّذِينَ عَقَدْتُمْ أَيْمَانَكُمْ فَآتُوهُمْ نَصِيبَهُمْ إِنَّ اللَّهَ كَانَ عَلَىٰ كُلِّ شَيْءٍ شَهِيدًا

Sura al nisa 33: To every one We have appointed shares and heirs to property left by parents and relatives. To those also to whom your right hand was pledged give them due portion for truly God is witness to all things.

Circumstances of Revelation

Saad b. Rabia's case

Jabir bin Abdullah reports

Saad b. Rabia's wife with her 2 Daughters reaches prophet's place and complains that Saad 's property (after his death becoming shaheed in Uhud) has been taken by his brother . Nobody was willing to marry Saad's daughters without property.

Prophet told her to wait as Allah has not given any knowledge regarding this. During this time prophet started getting Vahy and recited the ayah from Sura A-Nnisa.

Prophet then called Saad's brother and commanded him to give 2/3 to 2 Daughters and 1/8 to Wife and the rest for him to take

The first division of property in Islam is this incident

Comparisons with other religions

Most of the religions of the world distribute the property in the following manner:

1. **Testamentary succession.** Based on will
2. **Intestate succession.** If there is no will written

Salient features in other religions are

- Ascendants like father and mother excluded
- Female relatives excluded
- Spouse given full right of inheritance
- Only agnates inherit
- Primogeniture-eldest son preferred over others
- Difference between ancestral and personal property

Most important difference is In other religions Testamentary succession is of primary importance. Governed by laws of government and man made rules which keep changing

But in Islam Intestate succession is of primary importance. Governed by Divine revelations of Quran and Sunnah and are fixed & permanent.

Right of females

Many argue that in Islam there is no proper representation for females and females get only a portion of the share. But actually the opposite is true.

1. A ladies protection & expenditure is by males S,F,Br
2. A lady need not pay anybodies expenses but a male is commanded
3. Financial burden on man in Islam is much more
4. In marriage a man has to bear the expenses and he has to pay the mehr. But woman does not spend but gets mehr in addition.

Components

3 things should be there

1. The propositus or the deceased, one who died
2. One who inherits or Heir
3. Property

The propositus or the deceased, one who died
Death of a person

1. Witnessed by others
2. Officially declared dead if missing

Heir – Eligibility

1. Marriage : Should be legal as per sharia. In talaq inheritance is valid till 2 talaqs.
2. Blood relations
3. Freeing of a slave

Property Should be free of obligations

Obligations

Before the property goes to the inheritors the following obligations must be fulfilled from the property

1. Other's wealth/property-unpaid price, mortgage, rented property all to be settled
2. Funeral expences
3. Debts –see next
4. Waseeyat-not exceeding 1/3 of the balance after above except if inheritors agree.

Debts

1. Towards Allah-unpaid zakath, kaffarat, Nudr
2. Towards humans

All agree that debts to humans should be settled. But that of Allah there is difference of opinion among scholars.

Ali bin Abutalib said You people recite this verse After the fulfillment of the legacy or debt. But Allah's Messenger (s.a.s.) decided that a debt should be discharged before a legacy.

From Amr bin Al-as The Prophet (s.a.s) said A believer's soul remains in suspense until all his debts are paid off.

Abu Hurraira reported whenever a dead man in debt was brought to Prophet (s.a.s.) he would ask has he left anything to repay his debts. If there was something to pay his debts he would offer funeral prayer otherwise he would ask others present there to offer the prayer

Debts to Allah: If it is mentioned in the will it becomes obligatory. If not then there is difference of opinion.

Hanafi and Maliki feel that debts to Allah the inheritors need not pay.

But Shafei and Hanbali are of the opinion that it should be paid.

But Shafei and Hanbali are of the opinion that it should be paid. Basis for this is hadeeth reported by Ibn Abbas. A woman from the tribe of Juhainah came to the prophet and said " My mother had vowed to perform Hajj but she died before that. May I perform Hajj on her behalf ?. The prophet said Perform Hajj on her behalf. Had there been a debt on your mother would you have paid it or not? So pay Allah's debt as He has more right to be paid.

Conditions

1. Death of a person
 - Witnessed by others
 - Officially declared dead if missing
- Heir should be alive-present in person,
 - if missing till declaration of death,

- child in the womb
- Establishment of the relation

Loss of Right to Inherit

For the following reasons a persons loses the right to inherit

1. Slavery.
2. Killing of a person-intentional, unintentional, by mistake, indirectly.
3. Citizens of 2 ideologically different enemy nations.
4. Different religion.
5. Riddah=leaving Islam equals death.
6. Ignorance of time of death.
7. Not knowing the correct identity of the heir.

Lesson 3

Introduction

In this lesson there are few things to be understood and few to learn. Go through this lesson again and again. Things which are not clear to you leave them. You will learn them as you go to the next lessons and things will be more clear.

Understand

- Understand and use the abbreviations.
- All abbreviations must be learnt
- Understand fully the terminology used
- Understand fully the term agnate, cognate

Learn & remember

- Learn Order of Heirs
- Learn names of heirs

Very important to know

- All Relations mentioned in inheritance are to the person died
- Person died can be male or female
- Father means father of the person died, son means son of the person died
- If a heir is not alive then he does not inherit.

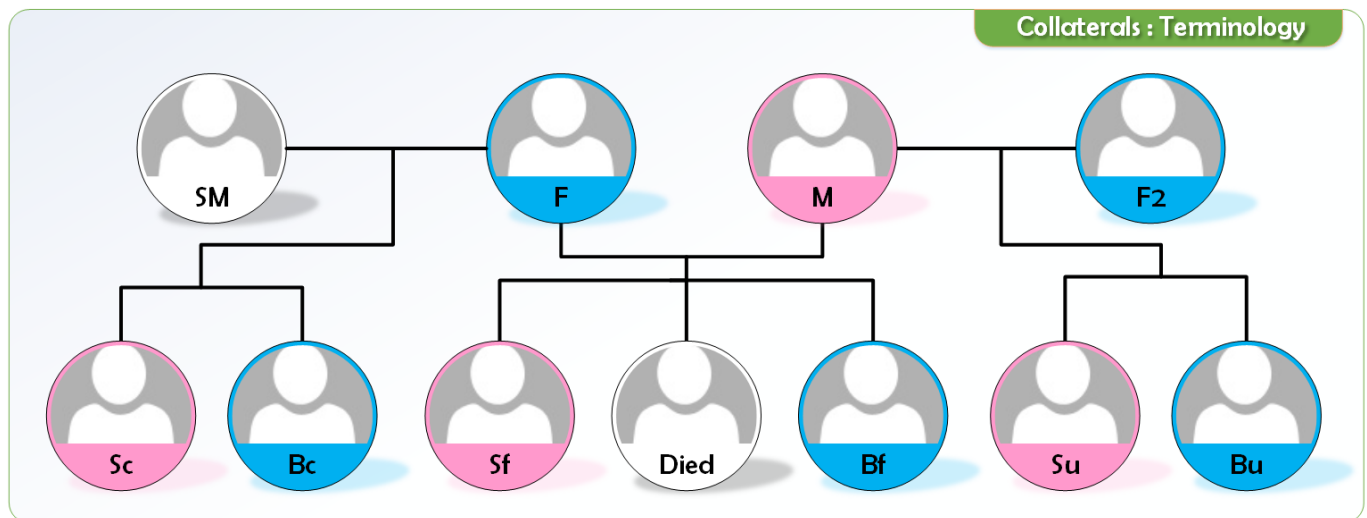
E.g. A has died leaving 2 sons and 2 daughters. But A had one more son who had died before A's death. Here the dead son does not inherit.

Abbreviations

H	Husband
W	Wife
D	Daughter
S	Son
SS	Son's son
SD	Son's daughter
SSD	Son's son's daughter
F	Father
M	Mother
TGF	True grand father
TGM	True grand mother
FM	Father's mother
MM	Mother's mother
Bf	Brother full
Bc	Brother consanguineous
Bu	Brother uterine
Sf	Sister full
Sc	Sister consanguineous
Su	Sister uterine
PUf	Paternal uncle full
PUc	Paternal uncle consanguineous
PUu	Paternal uncle uterine
PUfS	Son of Puf
PUcS	Son of PUc
PA	Paternal aunt

Terminology: Full & consanguineous

Full brother /sister	Brothers from same father same mother
Consanguineous brother/sister Paternal half brother/sister	Same father different mother
Uterine brother/sister maternal half brother/sister	Same mother different father. This can arise in 2 situations. 1. Mother has married the father after the death of first husband. 2. Father has died and mother has married again.



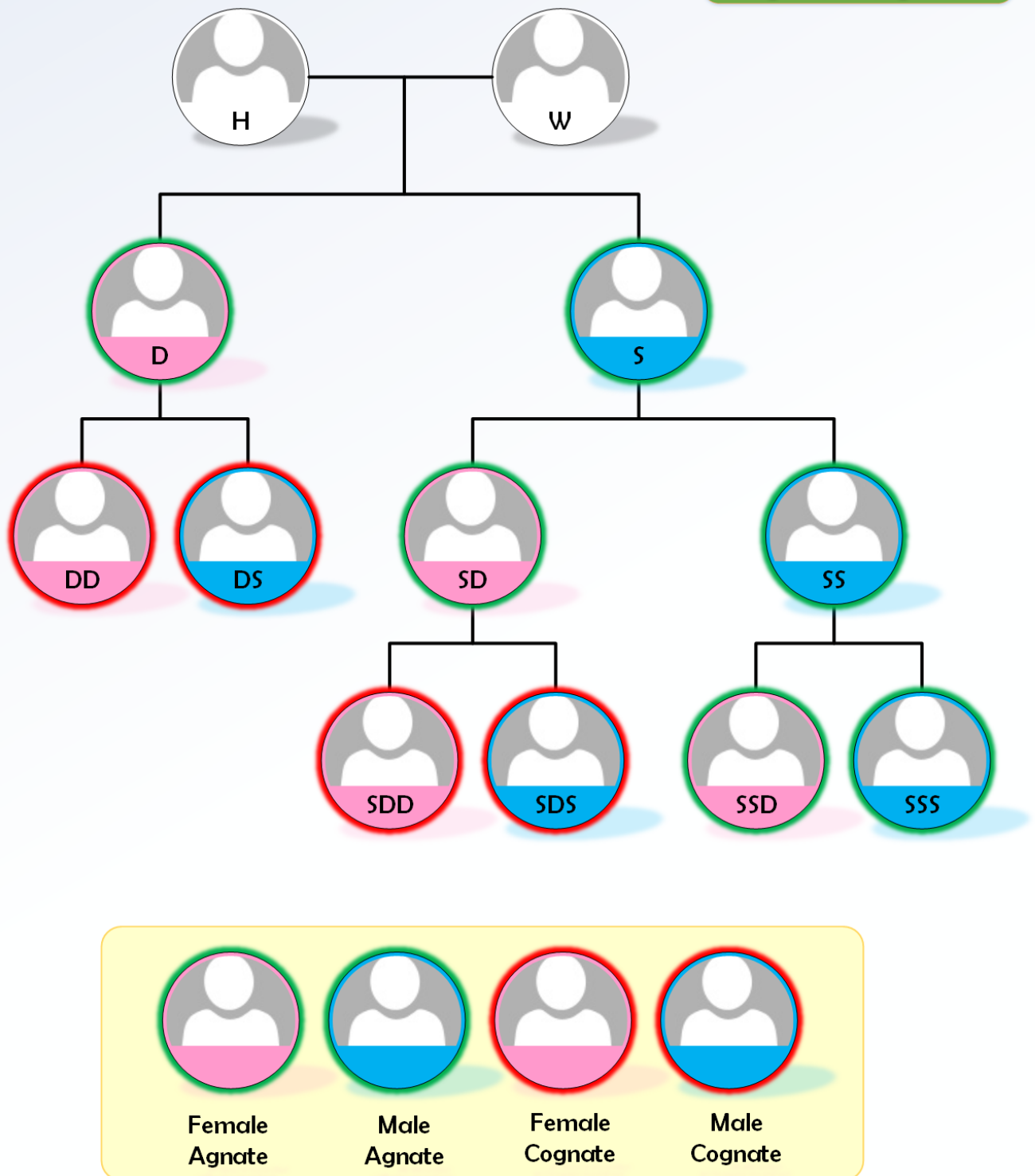
Terminology: Agnate

Agnate = a person is called agnate when he /she can be traced to the deceased (or the person whose inheritors are to be decided) without a female link. Person died can be male or female and the heir can be male or female but the link in between must be males only.

Only the link should be males.

- Agnatic Ascendants
 - male - F, FF, FFF
 - female - FM, FFM
- Agnatic descendants
 - male S,SS, SSS
 - female D, SD, SSD
- Agnatic Collaterals
 - male - Bf, Bc, BfS,BcS, PUf, PUc, PUS
 - female Sf, Sc, BfD...
- Cognate = female link between the person and the deceased
e.g.: DD, Mother's father, sisters son

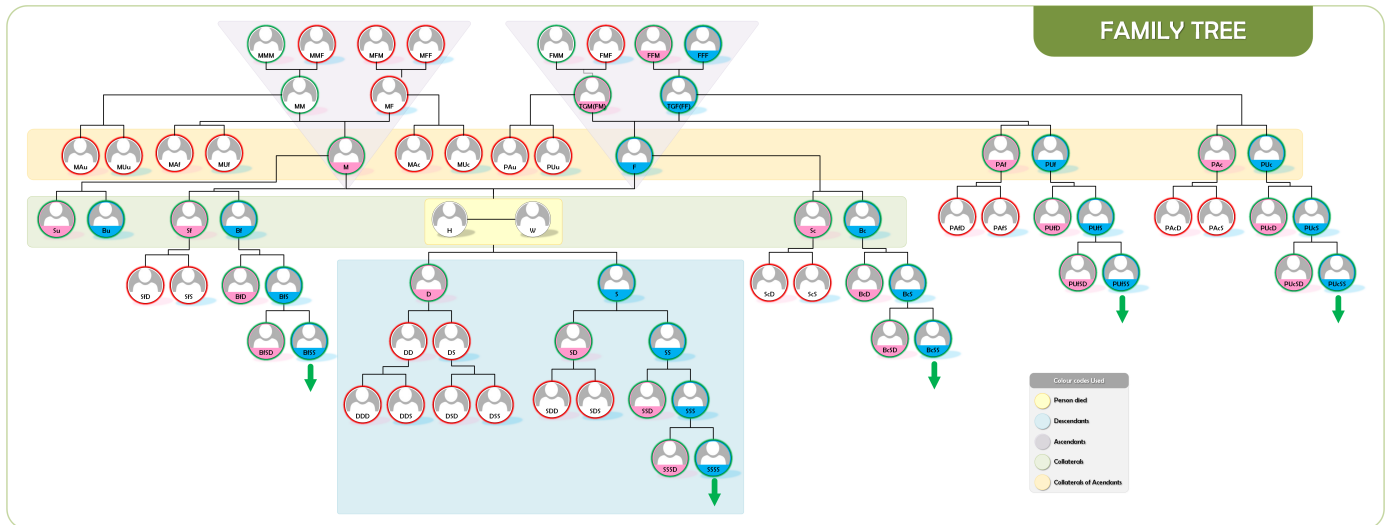
Agnates & Cognates



Understanding of this in a family tree is required for the following reasons

1. It decides the persons for residual shares - Asaba or balance heirs. All male agnates are in this category
2. It is required in calculation of shares of H,W,F,M,TGF

In the family tree below blue colour with green border indicates male agnates and pink colour with green border indicates female agnates



Heirs

1. Fixed share Heirs - 12 in number
2. Balance share heirs - male agnates
3. Radd – fixed heirs as balance heirs if group 2 are not there
4. Distant blood relatives- in the absence of above 1&2 – All blood relatives excluding 1&2 groups are included here
5. Spouse in the absence of above
6. One who freed the slave
7. Successor by contract
8. Acknowledged kinsmen
9. One who was given more than 1/3 as waseeyat
10. Baithul maal

Classification of Heirs

Based on importance:

- Primary Heirs :Always inherit – e.g. H, W, F, M, S, D (Never excluded)
- Secondary Heirs: Excluded by other heirs e.g. Bf, SS

Based on nature of relationship:

- Relations by blood
- Relations by affinity-marriage

Let us discuss these classes in detail.

Principle Classes — of prime importance

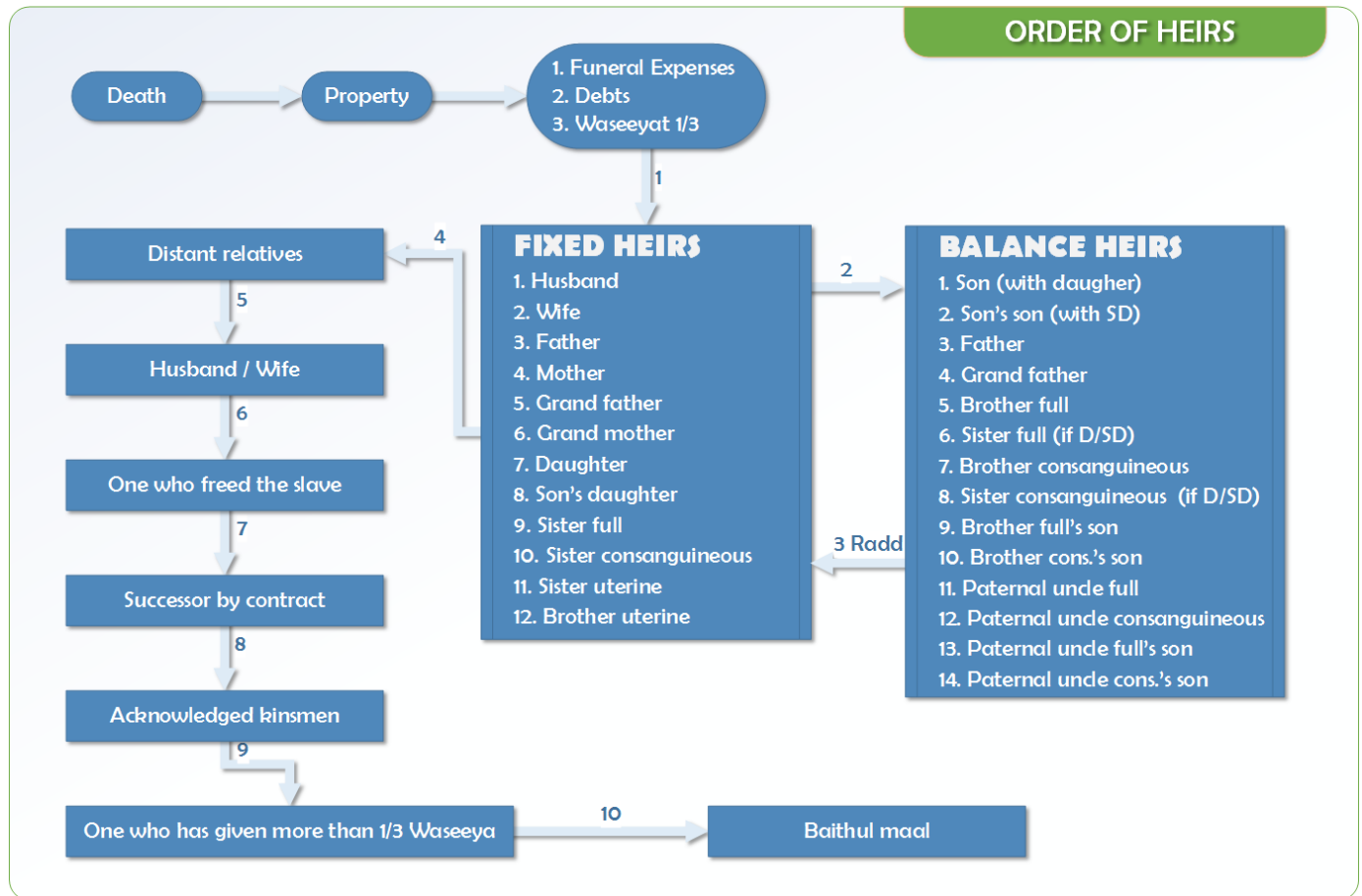
1. Fixed share Heirs
2. Residuary Share Heirs
3. Distant Kindred

Secondary Classes — of less importance

1. Freeing of a slave
 - If a slave who has been freed dies and there are no residuary to take the balance then the master who freed the slave becomes a residuary. Some place this class above the distant kindred. In the present day this is of no significance
2. Successor by contract
 - A successor by contract is a person with whom the deceased has made a contract to inherit his property after his death for some consideration. Shafei, Maliki and Hanbali do not recognize
3. Acknowledged kinsmen
 - Here the deceased has acknowledges some one else from a different family as his kinship. E.g.. Person recognizes someone as his brother (kinship through father) or as uncle (kinship through grandfather). Acknowledgement of kinship through oneself like accepting someone as son is not considered as acknowledged kinsmen. Shafei do not recognise this
4. One who was given $>1/3$ as waseeyat
 - In the absence of above all if there are no one then the person who has been mentioned in the waseeyat or the will takes the inheritance

Order of priority: Heirs

1. Quranic sharers - Fixed share Heirs - 12 in number
2. Asaba or residuary heirs or Balance share heirs - male agnates
3. Sharers to excess - Radd – fixed heirs as balance heirs if group 2 are not there(except spouses)
4. Distant blood relatives
5. Spouse who become heirs to excess
6. One who freed the slave
7. Successor by contract
8. Acknowledged kinsmen
9. One who was given more than $1/3$ as waseeyat
10. Baithul maal



Fixed Share Heirs

They can be classified in to three groups:

1. **Only fixed shares** : 6 –H, W, M, TGM, Bu, Su
2. **Either fixed or balance shares** : 4 – D, SD, Sf, Sc
3. **Both fixed and/or balance share** : 2 – F, TGF

Another classification can be made as per their relationship with the deceased:

1. Heirs by Affinity:

1. Husband, 2. Wife

2. Ascendants:

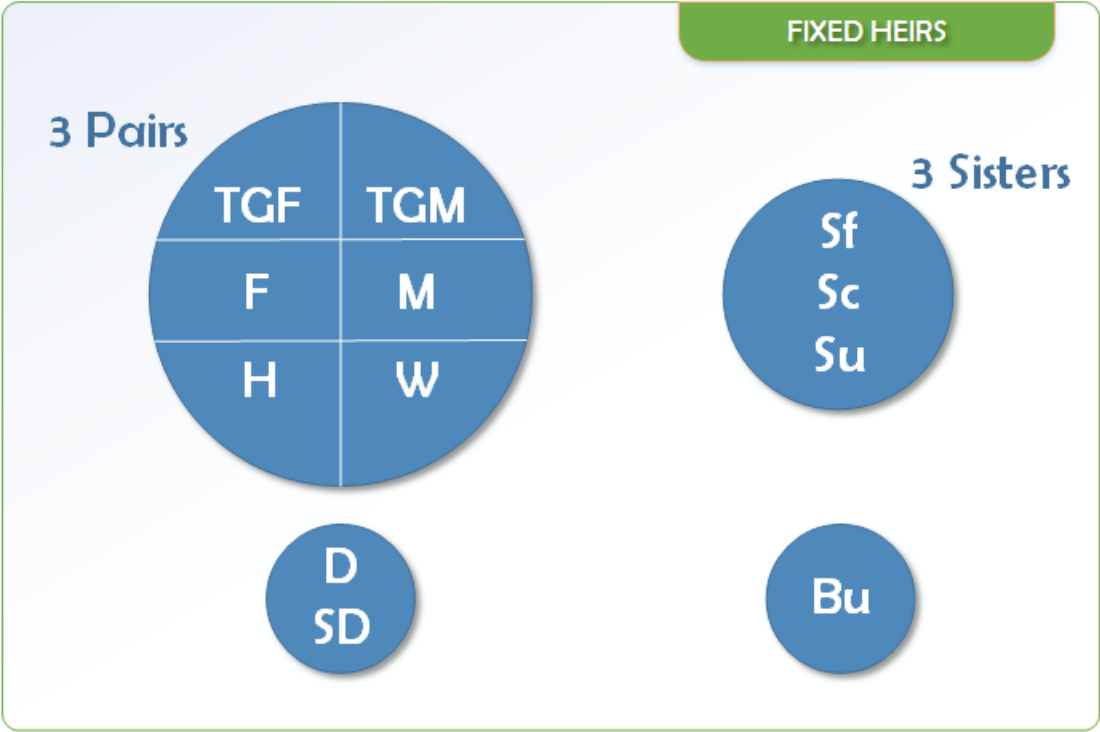
3. Father, 4. Mother, 5. TGF, 6. TGM

3. Descendants:

7. Daughter, 8. Son's daughter

4. Collaterals:

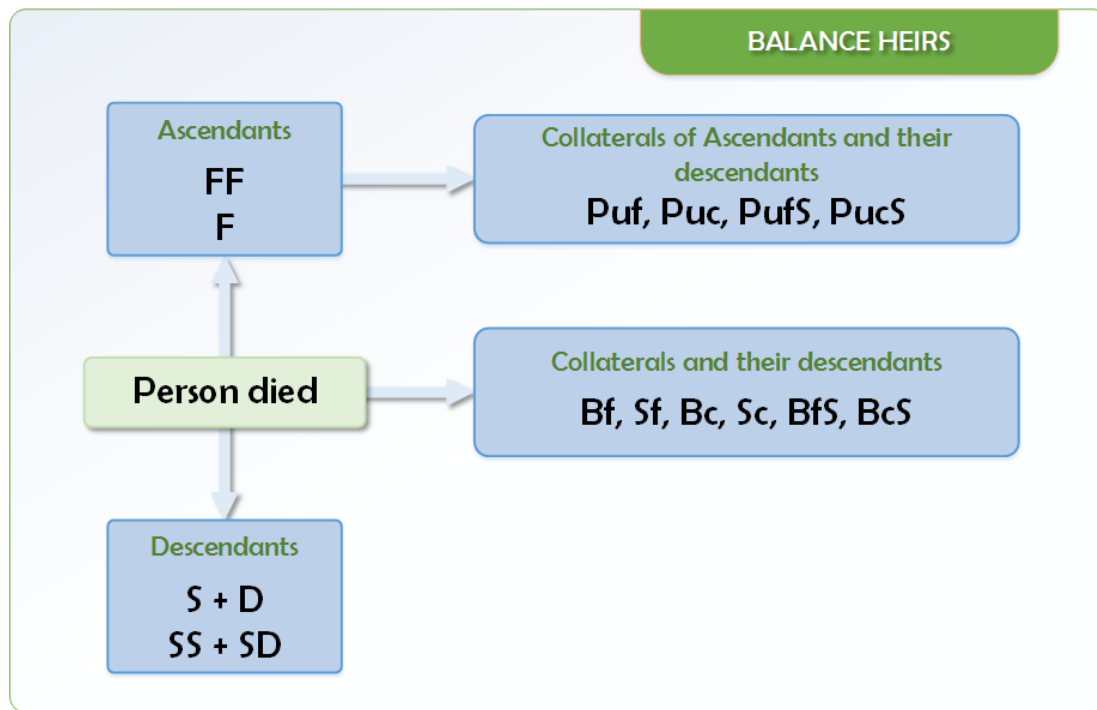
9. Sister full, 10. Sister consang., 11. Sister uterine, 12. Brother uterine.



Balance Heirs (Asaba)

Male	1. Son
	2. Son's son...
	3. Father
	4. True grand father
	5. Brother full
	6. Brother consanguineous
	7. Brother full's son
	8. Brother consang.'s son
	9. Paternal uncle full
	10. Paternal uncle consang.
	11. Paternal uncle full's son
	12. Paternal uncle consang's son
	13. Releaser of a slave
Female	1. Daughter

- | |
|--------------------------|
| 2. Son's Daughter |
| 3. Sister full |
| 4. Sister consanguineous |
| 5. Releaser of a slave |



Each Sharer - Characteristics

In the coming chapters the following characteristics of each sharer will be described in detail:

- Primary or Secondary
- Excluded by e.g.; FM excluded by F
- Excludes e.g.: S excludes all B & S
- Share fraction and the conditions favouring them
- Effect on other sharer e.g.; S and D reduce spouse' share
- Effect of other sharers on the person e.g.; M share reduced by 2 or more B/S
- Special occasions

Lesson 4

Share Calculation: F, M, H, W

- Out of 12 fixed heirs husband, wife, father, mother and grand mother are easy.
 - Uterine brother and sisters are also easy to learn.
 - Daughter's share is simple.
 - The only difficult part is son's daughter, sisters full and consanguineous and grand father -4 only
 - So learn these 4 carefully you have learnt the inheritance.
 - Asaba heirs are easy to learn
-
- In this lesson we learn shares of 4 heirs.
 - For each heir there is one chart which gives the shares. Learn that chart thoroughly. It is mentioned under each chart.

Very important to know

- All Relations mentioned in inheritance are to the person died
- Person died can be male or female
- Father means father of the person died, son means son of the person died
- If a heir is not alive then he does not inherit.
E.g. A has died leaving 2 sons and 2 daughters. But A had one more son who had died before A's death. Here the dead son does not inherit.
- If more than one person is there under one heir name then they share equally between them.
E.g.: D share is $\frac{2}{3}$ for 3 D's means they 3 Daughters share $\frac{2}{3}$ among them. Similarly W share $\frac{1}{4}$ and if more than one W then they share this $\frac{1}{4}$.
- Sons share balance means all living sons share the balance equally among them.
- If males and females of the same class and degree then males: female ratio is 2:1 with exception of Bu & Su

Fixed Share Heirs

- 12 in Number

- 4 males & 8 females
- 5 are primary heirs(always inherit Never excluded)
- rest 7 secondary heirs.
- 4 heir's share is dependent on agnatic descendents
- 8 fixed share heirs (M, TGM, D,SD,Sf,Sc,Su,Bu,) take the balance as Radd (=return, see the chapter on Radd) if they are alone in the absence of other heirs

Husband(H) & Wife(W)

It should be remembered that both cannot inherit at the same time.

One person has died. If Husband has died Wife inherits and if Wife died Husband inherits.

	No Child/AD(Agnatic Descendent)	Presence of child/AD
H	1/2	1/4
W	1/4	1/8

AD = Agnatic Descendant = children, son's children, son's son's children
e.g. S, D, SS, SD, SSS, SSD

When any person dies the share of the Husband / wife of the person died depends on the presence of agnatic descendants of the person died.

Rule Of ½

- Husband Gets 1/2 if AD absent
- Husband gets 1/2 of 1/2 = 1/4 if AD present
- Wife gets 1/2 of above

H & W - Sum up

Pr./Sec	Primary Heirs
Excluded by	None
They exclude	None

Share fraction	Ref. above
Effect on others	Reduces share of M when F,M,&spouse
Effect of others	Child/AD –reduce their share
Remarks	They don't get excess share if other sharer are present They get excess if no DK
Special occasion	F, M, spouse

H & W : Special remarks

If there are more than one wives then they divide their fraction equally among them.

If the marriage is not valid one then H and W rule does not apply.

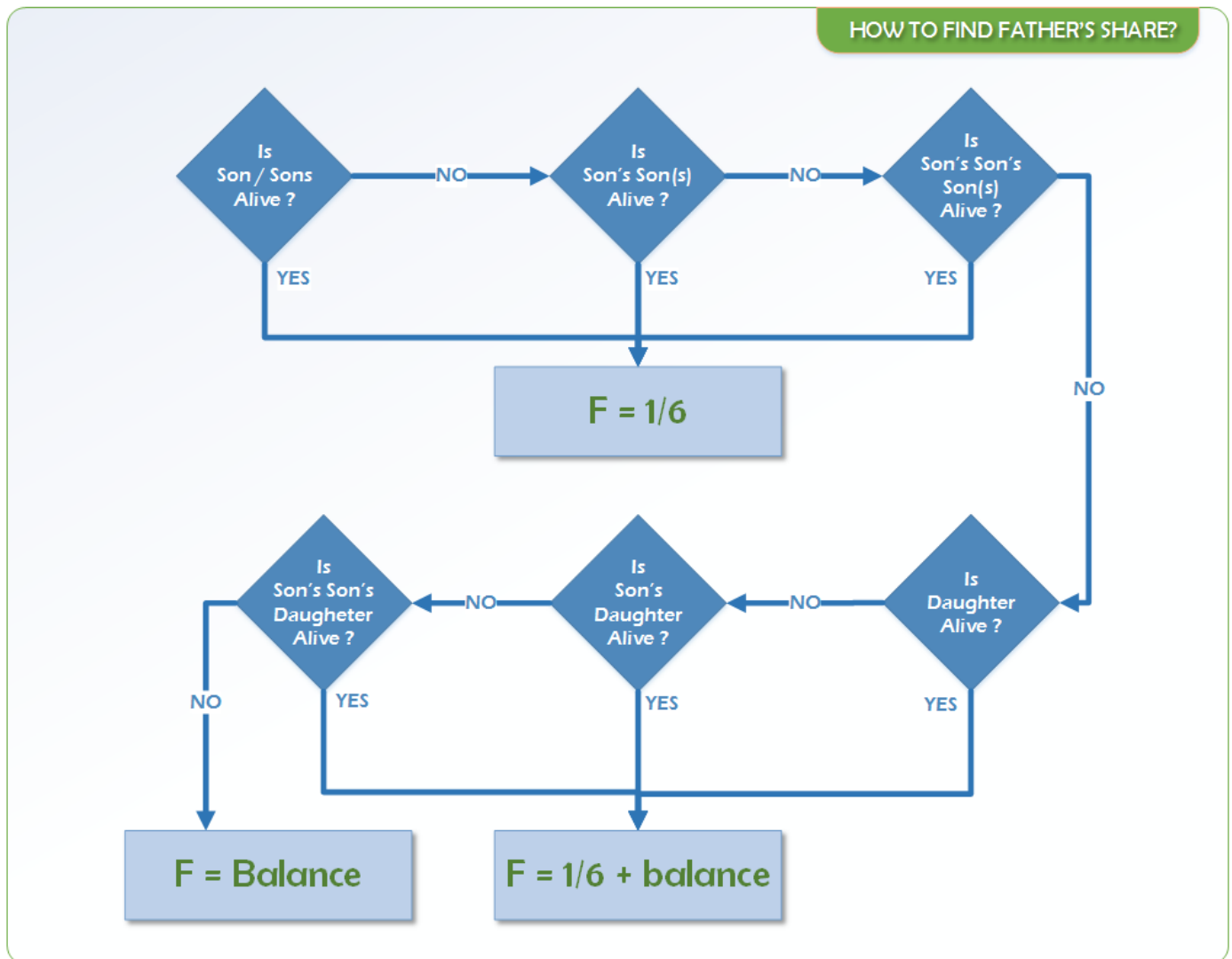
Father (F)

Pr./Sec	Primary Heir
Excluded by	None
They exclude	All collaterals - Br.& Sr, GF, GM through him
Share fraction	see below
Effect on others	As above
Effect of others	Son, Daughter reduce share
Effect of Awl	Share reduces
Effect of Radd	Situation does not arise
Special occasion	F, M, spouse

Important! F and GF (in the absence of father) are the only ones who inherit in dual capacity i.e.: both as fixed and balance heirs

Father's Share

As Fixed share	1/6	When there is male agnatic descendant S, SS, SSS
As Residuary	Entire Residue	No male or female agnatic descendant
As both	1/6 + Residue	When there is female agnatic descendant D, SD, SSD



Mother (M)

Pr./Sec	Primary Heir
Excluded by	None
They exclude	All GM - Both Paternal& Maternal
Share fraction	see below
Effect on others	As above

Effect of others	Son, daughter, any brother/sister more than 2 reduce share
Effect of Awl	Share reduces
Effect of Radd	Eligible
Special occasion	F, M, spouse

Mother's Share

1. Maximum $\frac{1}{3}$
2. Minimum $\frac{1}{6}$
3. As special case $\frac{1}{3}$ of balance

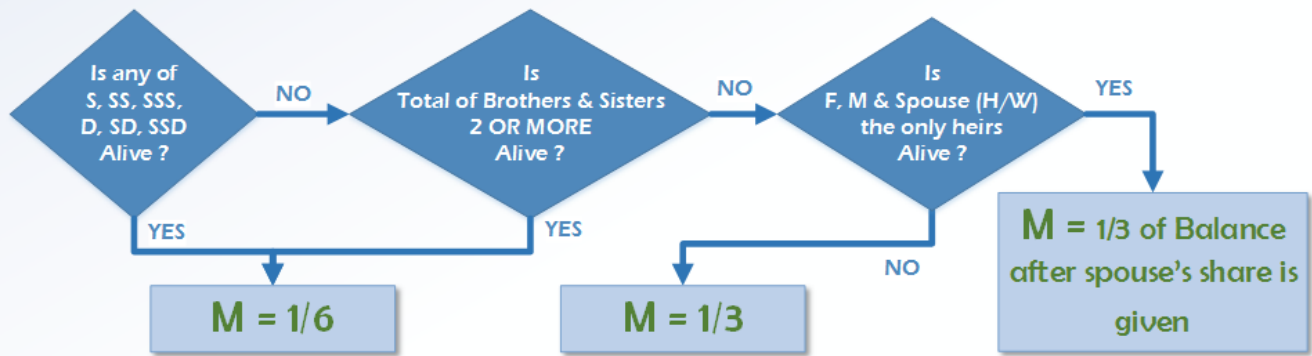
1/3 If there is	1/6 If there is
1) No Agnatic descendant - S, D, SS, SD... 2) No more than one Br or Sr of any kind - Bf, Bc, Bu, Sf, Sc, Su	1) Agnatic descendant - S, D, SS, SD... 2) 2 or more Br or Sr of any kind

Mother is never excluded but on four occasions mother's share is reduced:

1. Presence of children of the deceased
2. Presence of Agnatic descendant
3. Presence of 2 or more B or S
4. Presence of father and spouse with mother

Special case 1/3 of Balance: If M is eligible for $\frac{1}{3}$, In the presence of spouse and father mother will get $\frac{1}{3}$ of balance after spouses share is given

HOW TO FIND MOTHER'S SHARE?



F, M, Spouse : Special Case

If mother is given $1/3$ of total as agreed by some then the father's share may become less than the mother's share which is against the Quran. This special case of mother has not been told in the Quran. Most Sahabees based on research devised a rule and is accepted by all.

The rule is in such a case is mother will get $1/3$ of balance after spouses share is given.

These two special cases (H,F,M or W,F,M) are called as Al Gharrawani or the Two Deceivers or Umariyyatain or the Two of Ummer.

Two deceivers because they deceived the mother's share by reducing it. Ummer bin Khattab (R.A) 2nd Khalleef of islam gave the verdict. Most of the Sahaabees endorsed it except Abdulla Ibn Abbas (R.A) and Ali (R.A.)

Summary: F/FF, M, H, W

Share fraction of F/FF, M, H, W in various situations can be summarised as:

	F/FF	M	H	W
Presence of S, SS	$1/6$	$1/6$	$1/4$	$1/8$
Presence of D, SD	$1/6 + \text{balance}$	$1/6$	$1/4$	$1/8$
No Agnatic Descendants	balance	$1/3$	$1/2$	$1/4$

Lesson 5

Share Calculation: D & SD

Daughter's share is easy.

But son's daughter is difficult. Go through it again and again to master it

They are the only descendants getting fixed share

For practical purposes they are classified as daughter's class

D & SD: Salient Features

Holy Quran fixes maximum and minimum shares

- If son/s and Daughters are there they share 2:1
- If no son/s
 - Maximum $\frac{2}{3}$ - if 2 or more than 2
 - Minimum $\frac{1}{2}$ - if single

1. With the son of equal degree they become residuary in the ratio of 2:1 M:F

2. Nearer son excludes –all lower daughters

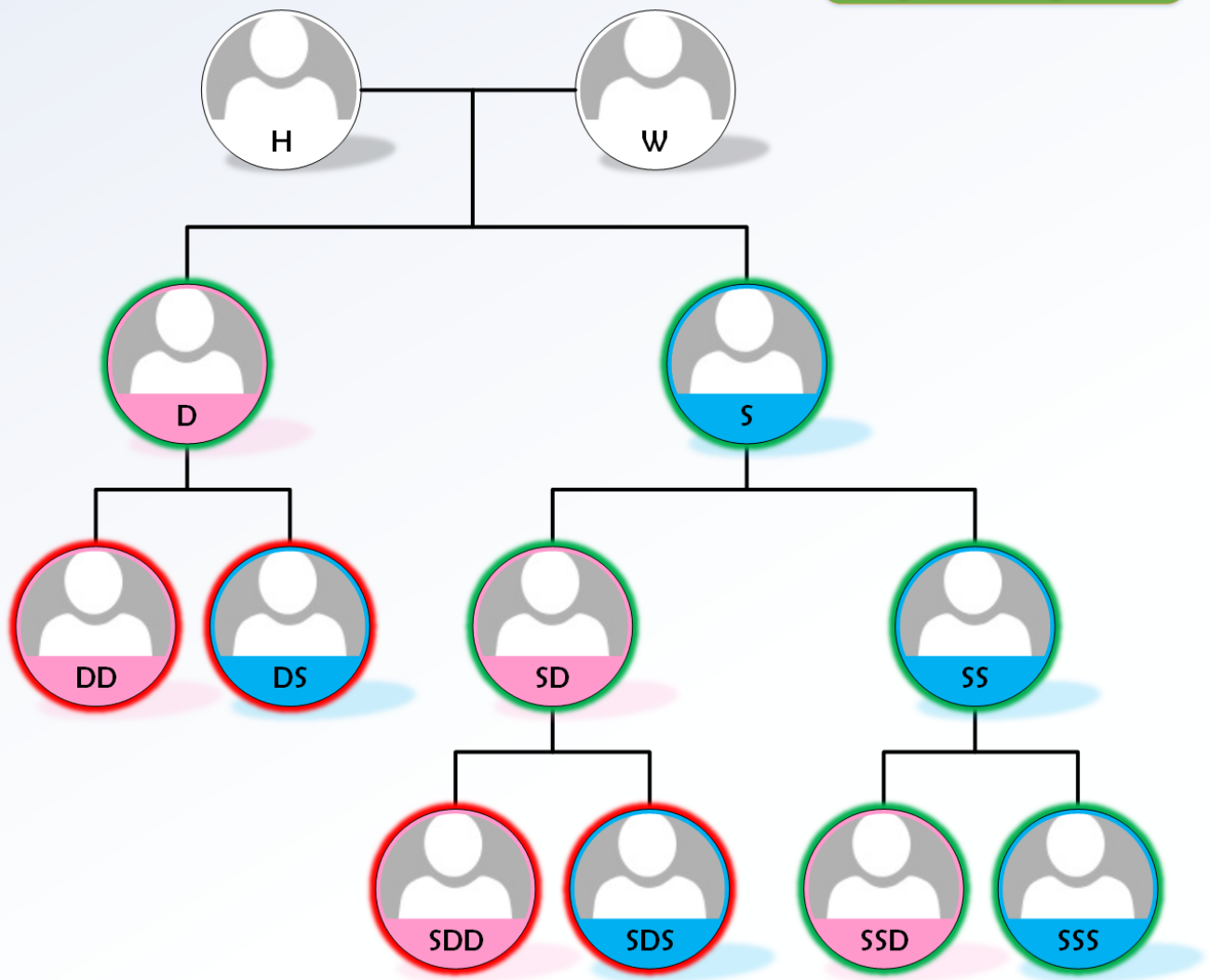
3. In the absence of equal degree son/s

- Maximum $\frac{2}{3}$ - if 2 or more than 2
- Minimum $\frac{1}{2}$ - if single

1. If claimants are more than 2 and equal in degree they divide $\frac{2}{3}$ equally among them

2. If not equal in degree then the superior daughter is given first from $\frac{2}{3}$ quota and remaining to lower SD, total not exceeding $\frac{2}{3}$

Agnates & Cognates

Female
AgnateMale
AgnateFemale
CognateMale
Cognate

Daughter D

Daughter will have 3 states:

1. If Single = 1 / 2 share
2. 2 or more = 2/3 equally divided

3. With Son of equal degree = she becomes residuary M:F ratio 2:1

Number of D	Condition	Share
Single	No S	1/2
2 or more	No S	2/3
Any No.	With S	Balance M:F = 2:1

D & SD: Difference of opinion

1. Ibn Abbas's opinion : Only if Daughters are 3 and above they will get 2/3
2. Most other scholars disagree with this : 2 or more than 2 are same according to them.

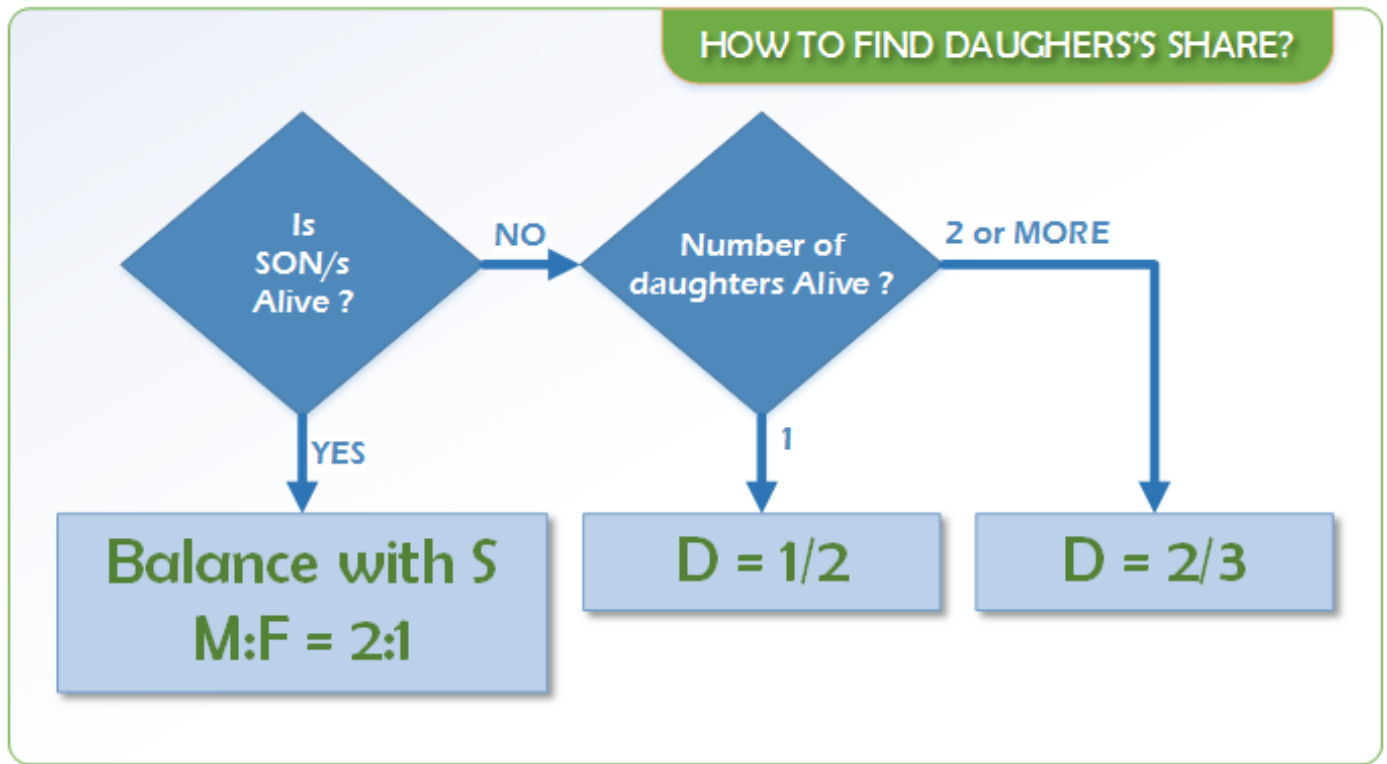
D - Sum Up

Pr./Sec	Primary Heir
Excluded by	None
They exclude	Excludes lower SD if her no.is 2 or more Excludes Bu & Su
Share fraction	As above
Effect on others	Reduces SD share. Reduces share of mother. Converts Sf & Sc into residuary
Effect of others	S converts her into residuary
Effect of Awl	Share reduces
Effect of Radd	Eligible
Special occasion	Nil

How To Find D Share

Since D is primary heir she is never excluded

- See if S is there = D goes for residue
- No S + Single D = $\frac{1}{2}$
- No S + 2 or more D = $\frac{2}{3}$ equally divided



Son's Daughter (SD)

1. With the son of equal degree they become residuary in the ratio of 2:1 M:F
2. Nearer son excludes – all lower daughters
3. In the absence of equal degree son/s
 - Maximum 2/3 - if 2 or more than 2
 - Minimum 1 /2 - if single
 1. If claimants are more than 2 and equal in degree they divide 2/3 equally among them
 2. If not equal in degree then the superior daughter is given first from 2/3 quota and remaining to lower SD, total not exceeding 2/3
 3. Lower SSS will make higher SD residuary if she is not getting share otherwise

Hudail B. Shurahbil reports:

Once Abu Moosa al ashaari was approached for share of D, SD, Sf

He told D will get 1/2 and Sf will get 1/2.

Then when Ibn Masoud was approached he said it is against prophets verdict which says. D will get 1/2 SD =1/6 and Sf =balance=1/3

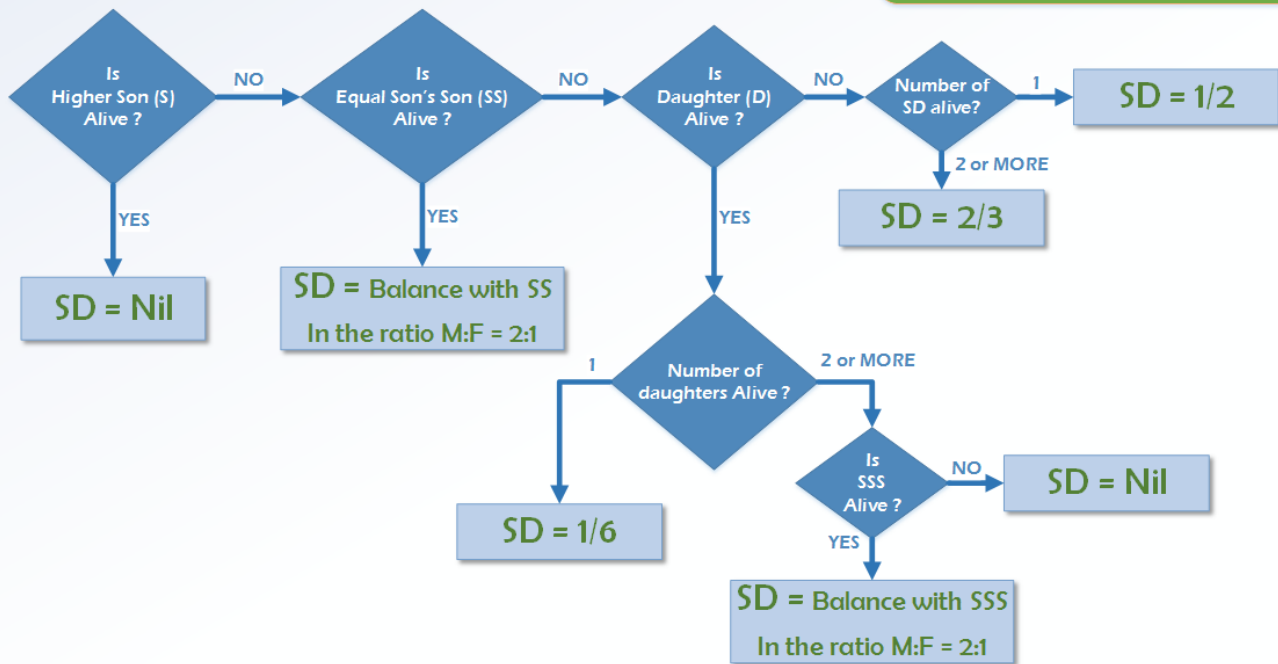
SD Share

	Condition	Share
Higher S	S Present	Nil
With SS of equal degree	No S	Balance. M:F =2:1
If unequal & single superior D	1D, No S, SS	½ to superior D and 1/6 to lower SD
2D - exclude	2D with no S, SS	Nil
2D	with SS	Bal with SS
2D	2D & No S, SS With SSS	Balance if not getting share otherwise
Single	No S, SS & D	1/2
2 or more	No S, SS & D	2/3

How To Find SD Share

1. Higher S present = SD excluded
2. See if equal SS is present = balance with SS
No S, No SS—See No. of D
3. 1 D = SD will get 1/6
4. 2 D + No SSS = SD will get NIL
5. 2 D + lower SSS present = Balance with SSS
6. No S, SS + No D + Single SD = ½
7. No S, SS + NO D + 2 or more SD = 2/3

HOW TO FIND Son's Daughter's (SD) SHARE?



With S or SS, SD will have 3 states:

1. Higher S or SS will exclude lower SD or SSD
2. If same degree ,he will drag her into residue
3. If SSS is lower than SD and if SD is not getting any share with D, then he will drag her into residuary class. Here presence of SSS benefits SD

SD - Sum Up

Pr./Sec	Secondary Heir
Excluded by	More than 2D, Higher S, Higher SD >2
They exclude	Excludes lower SD if her no.is 2 or more Excludes Bu & Su
Share fraction	As above
Effect on others	Reduces lower SSD share, Reduces share of mother Converts Sf & Sc into residuary
Effect of others	SS converts her into residuary D reduces her share and >2D exclude her
Effect of Awl	Share reduces
Effect of Radd	Eligible

Special occasion	SD with lower SSS, if SD is not getting share
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Lesson 6

Sister Class & Share Calculation: Sf

This lesson is difficult to understand

But go through this class again and again till you master it.

Collaterals : Sf, Sc, Su, Bu

- 3sisters and 1 brother are included under fixed heirs
- These are secondary heirs
- Excluded by S, SS, SSS, F
- Full Brother exclude consanguineous Brother & Sister
- Uterine Br & Sr are not affected by full or consang. Br & Sr

Definition

- Sf = Sister full, sister from same father & mother
- Sc = Sister consanguineous or paternal half sister same father but different mothers
- Su = Sister uterine or maternal half sister, sister from same mother but fathers are different
- Bu = Brother uterine, same as sister uterine



Sister Class

Surah a'nisa verse 176 is the basis as told by prophet (sas) and quoted by Aboobacker

Jabir was asking about the sisters share and the present verse was revealed

Sisters class is almost similar to daughters class

Sf is like D, Sc is like SD

Sisters Class- General Rule

1. S, SS, SSS, F exclude them
2. In the presence of equal male counterparts they become residuaries. E.g.. Bf & Sf and Bc & Sc. With double share to male.
3. If single she gets $\frac{1}{2}$
4. If 2 or more than 2 they get $\frac{2}{3}$ equally divided
5. If Sf + Sc, then Sf will get $\frac{1}{2}$ and balance of $\frac{2}{3}$ i.e. $\frac{1}{6}$ goes to Sc
6. If Sf are more than 2 then Sc gets excluded.
7. In association with D or SD they become residuaries.

Hudail B. Shurahbil reports:

Once Abu Moosa al ashaari was approached for share of D, SD, Sf

He told D will get $\frac{1}{2}$ and Sf will get $\frac{1}{2}$.

Then when Ibn Masoud was approached he said it is against prophets verdict which says. D will get $\frac{1}{2}$ SD = $\frac{1}{6}$ and Sf = balance = $\frac{1}{3}$

Sister full (Sf)

Sf Shares

1	Presence of S, SS.. F	Nil
2	With TGF	Hanafi- Nil Other-Diff schemes.
3	No S, SS... F, TGF With Bf	Balance with Bf 1:2
4	No S, SS.. F, Bf, TGF With D /SD	Balance alone
5	Single No S, SS..., F, TGF , Bf, D/SD	$\frac{1}{2}$
6	2 or more No S, SS.. F, TGF, Bf, D/SD	$\frac{2}{3}$

Sf as a balance heir

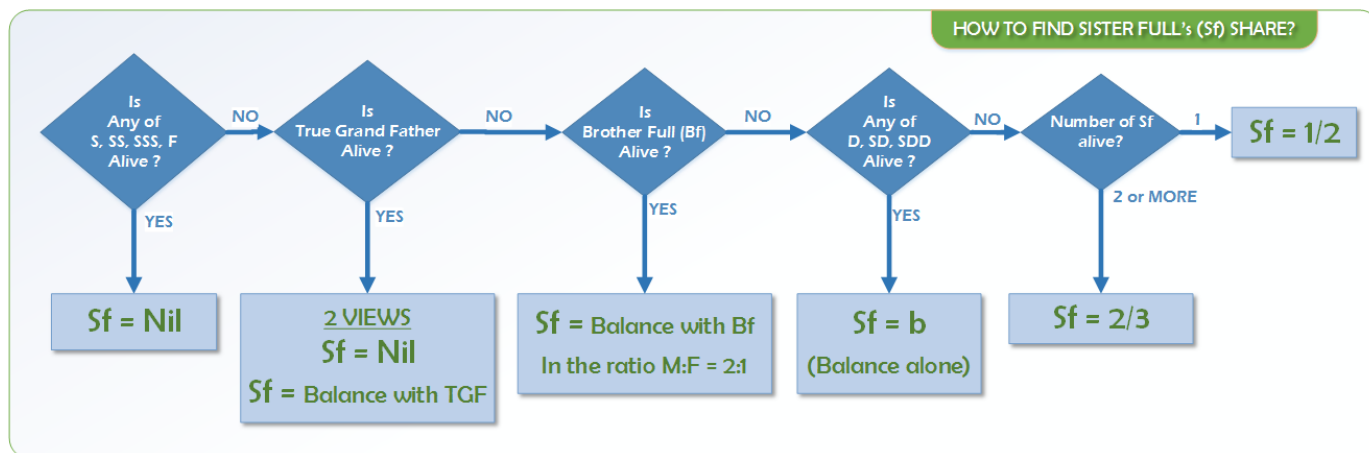
The order of balance heirs is such that whoever is first in the list will inherit the balance. If first one is not there second in the list will inherit, and so on.

In the list below if S is alive all others will be excluded for balance heir. If S is not alive SS will take the balance and likewise next in the list.

Order of balance heirs		
Descendants	S	If S is alive He will take the balance
	SS	If S is not alive SS will be balance heir
	SSS	No S, SS then SSS is balance heir
Ascendants	F	No S, SS, SSS then F is balance heir
	TGF	No S, SS, SSS, F then TGF is balance heir
Collaterals	Bf	No S, SS, SSS, F, TGF then Bf is balance heir
	Sf	No S, SS, SSS, F, TGF, Bf but D/SD/SSD alive Then Sf is the balance heir

How balance heirs affect share of Sf

Balance heirs		Sf Share
S	If S is alive He will take the balance	Nil
SS	If S is not alive SS will be balance heir	Nil
SSS	No S, SS then SSS is balance heir	Nil
F	No S, SS, SSS then F is balance heir	Nil
TGF	No S, SS, SSS, F then TGF is balance heir	Two opinions 1. Nil 2. Balance with TGF
Bf	No S, SS, SSS, F, TGF then Bf is balance heir	Balance with Bf
Sf	No S, SS, SSS, F, TGF, Bf but D/SD/SSD alive Then Sf is the balance heir	Balance alone
Single Sf	None from above alive	1/2
2 or more Sf	"	2/3



Sf - Sum Up

Pr./Sec	Primary Heir
Excluded by	F, TGF ?, S, SS, SSS
They exclude	More than 2 exclude Sc With D/SD Exclude Sc & Bc(As residuary)
Share fraction	As above
Effect on others	Reduces share of mother
Effect of others	D & SD covert her into Residuary Bf converts her into Residuary
Effect of Awl	Share reduces
Effect of Radd	Eligible
Special occasion	With TGF

Lesson 7

Share Calculation: Sc

This is the most complicated share calculations.

Sister Consanguenous (Sc)

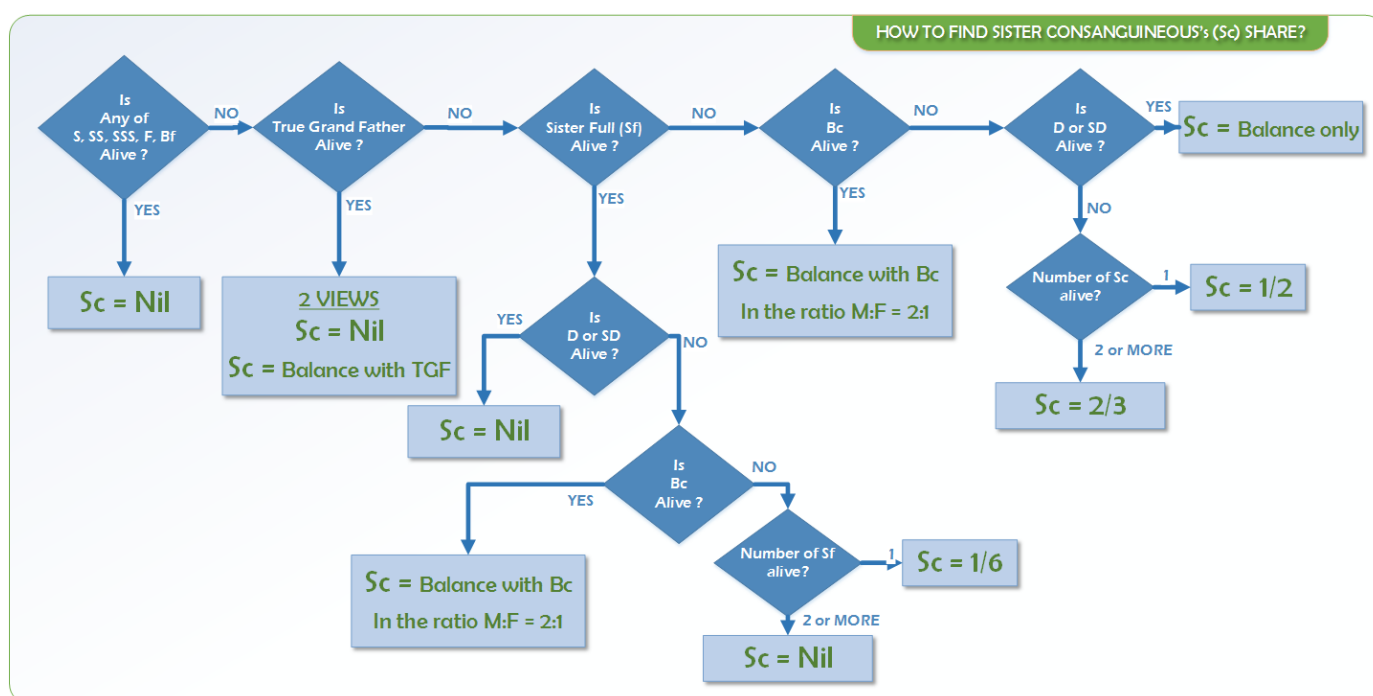
- In the absence of Sf, Sc gets the share.
- She is excluded by S, SS., F, Sf if more than 2, Sf as residuary, Bf
- Converted into residuary by D/SD, Bc
- Reduces share of M if 2 or more

Sisters Class- General Rule

1. S, SS, SSS, F exclude them
2. In the presence of equal male counterparts they become residuaries. E.g.. Bf & Sf and Bc & Sc. With double share to male.
3. If single she gets $\frac{1}{2}$
4. If 2 or more than 2 they get $\frac{2}{3}$ equally divided
5. If Sf +Sc ,then Sf will get $\frac{1}{2}$ and balance of $\frac{2}{3}$ i.e. $\frac{1}{6}$ goes to Sc
6. If Sf are more than 2 then Sc gets excluded.
7. In association with D or SD they become residuaries.

	Condition	Sc Share
1	Presence of S, SS.. F	Nil
2	No S,SS,..F With TGF	Same as Sf
3	No S,SS,..F TGF With Bf	Nil
4	No S, SS, F, TGF, Bf, but Sf+ with D/SD	Nil
5	No S, SS, F, TGF, Bf, Sf With Bc	Balance with Bc 1:2

6	No S, SS, F, TGF, Bf, D/SD With Bc	Balance with Bc 1:2
7	No S, SS, F, TGF, Bf, Sf, Bc With D /SD	Balance alone
8	No S, SS, F, TGF, Bf, Bc,D,SD With 1 Sf	1/6
9	No S, SS, F, TGF, Bf, Bc,D,SD With 2 or more Sf	Nil
10	Single Sc No S, SS, F, TGF , Bf,D,SD, Sf, Bc	1/2
11	2 or more No S, SS, F, TGF , Bf,D,SD, Sf, Bc	2/3



Effect of others on Sc

Sf or Bc may affect Sc advantageously or adversely sometimes.

1. H, Sf, Sc, Bc – Here Bc adversely affects Sc. Both get nil
2. D, SD, Sf, Sc.- Here Sf adversely affects Sc
3. M, 2Sf, Sc, Bc - here Bc benefits Sc

Sc - Sum up

Pr./Sec	Secondary Heir
Excluded by	F, TGF ?, S, SS, SSS, Bf 2Sf, Sf as residuary
They exclude	With D/SD Exclude BfS or lower(As residuary)

Share fraction	As above
Effect on others	Reduces share of mother
Effect of others	D &SD covert her into Residuary Bc converts her into Residuary
Effect of Awl	Share reduces
Effect of Radd	Eligible
Special occasion	With TGF

Lesson 8

Calculation of shares: BU, SU, TGM

Uterine Brother & Sister (Bu & Su)

- Uterine =same mother and different F
- Also called Maternal half brother and sister.
- Cognatic.
- Secondary heirs.
- Excluded by: S, SS..., F, D, SD, TGF.
- Bf, Sf do not exclude them.
- 2 or more Bu and/or Su reduce share of M
- Sura Nisaa Ayat 12 is the basis

وَإِنْ كَانَ رَجُلٌ يُورَثُ كَلَالَةً أَوْ امْرَأَةٌ وَلَهُ أَخٌ أَوْ أُخْتٌ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا الشُّدُّ فَإِنْ كَانُوا أَكْثَرَ مِنْ ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ مِنْ بَعْدِ وَصِيَّةٍ يُوصَىٰ بِهَا أَوْ دَيْنٍ غَيْرَ مُضَارٍّ وَصِيَّةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ خَلِيمٌ

If a man or a woman die in a state of Kalalath(with no ascendants or descendants) and he/she has a brother or sister then each one of them will get one sixth, but if more than two they share one third, after payment of debts and legacies, without any harm to anyone. Thus it is ordained by Allah, Allah is All Knowing, Most forbearing

Surah Al Nisa' 4:12

Exception to general rule: Bu & Su take equal parts unlike 2:1 ratio for M:F

	Condition	Bu/Su Share
Single Bu/Su	No S, SS, D, SD, F, TGF	
More than 1 Bu and/or Su	No S,SS, D, SD, F, TGF	1/3 Equally divided

Any number	Presence of S, SS, D, SD, F, TGF	Nil
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Different shares for the sister class in the presence of different balance heirs can be summarised as follows:

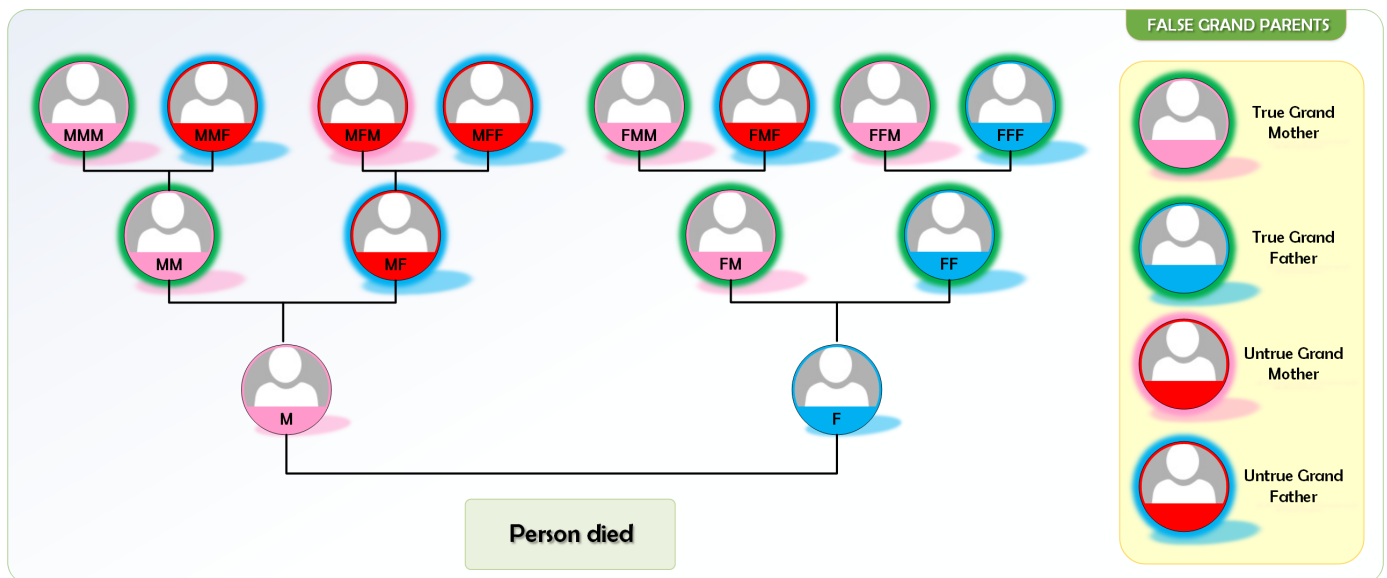
Balance Heir	Share of Sf	Share of Sc	Share of Su/Bu/both
S	0	0	0
SS	0	0	0
F	0	0	0
TGF	0/b	0/b	0
Bf	b	0	0 - 1/6 - 1/3
Sf + D/SD	b	0	0
Bc	1/2 - 2/3	b	0 - 1/6 - 1/3
Sc + D/SD	\$(Not alive)	b	0
other	1/2 - 2/3	1/6 - 0 - 1/2 - 2/3	0 - 1/6 - 1/3

Bu & Su - Sum up

Pr./Sec	Secondary Heir
Excluded by	S, SS, SSS, F, TGF, D, SD
They exclude	None
Share fraction	As above
Effect on others	Reduces share of mother
Effect of others	No effect
Effect of Awl	Share reduces
Effect of Radd	Eligible
Special occasion	Bf & Sf do not exclude them Bu & Su take equal shares

True Grand Mother

- Only True grand mothers are eligible.
- **True Grand mother** = No untrue grand father in the lineage
- **True Grand father (TGF)** is Grand Father with no female in between the person died and the grandfather. E.g.. Father's father (FF), or his father (FFF)...
- **Untrue Grand Father** is a grand father with a female between the person died and the grand father. e.g. Mother's father (MF), his father (MFF) or father's mother's father (FMF)
- **True GM** : MM, FM, MMM, FFM, FMM,
- **Untrue GM** : MFM, FMFM.



Confirmed by Prophet (s.a) practice.

Khubaisath bn duaib narrates

Aboobacker (R.) made this practice into effect after GM approached him regarding her share , after confirming the prophet's practice as told by Mugeerat b Shuaib and confirmed by Muhammadubn Maslamathal ansari.

(Reported by 5)

TGM Share

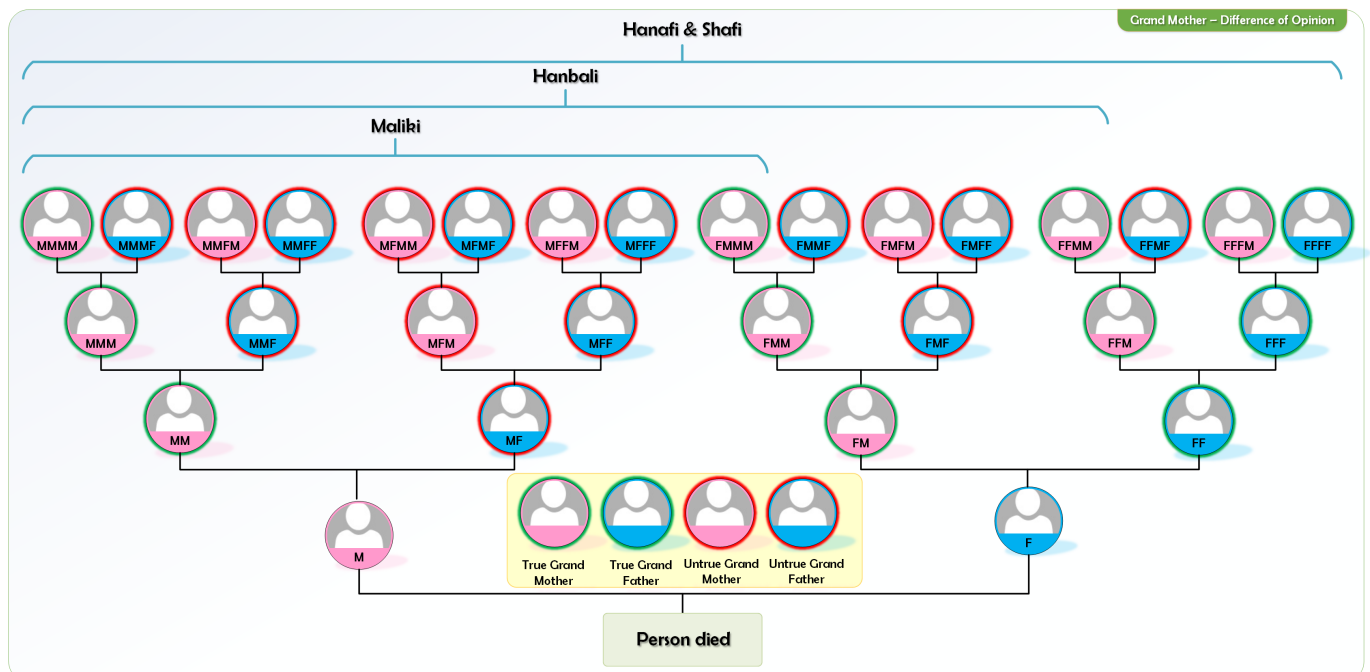
Single	1/6
More than 1	1/6 equally divided

No share for TGM:

- M will prevent FM and MM share. That is if mother is there TGM will not get any share
- If F is there FM will not get share
- Near GM will exclude distant GM

TGM - Difference of opinion:

	Hanafi	Shafi	Maliki	Hanbali	
All TGM inherit	Yes	Yes	No	No	
M Excludes all TGM	Yes	Yes	Yes	Yes	
F excludes all paternal GM	Yes	Yes	Yes	No	Because F does not exclude Maternal GM
Nearer Maternal GM excludes all remote GM	Yes	Yes	Yes	Yes	
Nearer Paternal GM excludes all remote GM	Yes	Paternal only	Paternal only	Yes	Because F does not exclude Maternal GM
UTGM as Distant Kindred	Yes	Yes	No	Yes	



TGM - Sum up

Pr./Sec	Secondary Heir
Excluded by	M, F
They exclude	Higher GM
Share fraction	As above
Effect on others	Nil
Effect of others	Excluded by..
Effect of Awl	Share reduces
Effect of Radd	Eligible
Remarks	Only TGM eligible
Special occasion	-

[\(Lesson7.html\)](#)
[Go to Lesson 9 – Calculation of shares: TGF \(Ali's Scheme\) >> \(Lesson9.html\)](#)

Lesson 9

Calculation of shares: TGF (Ali's Scheme)

Prophet's(SAS) Hadeeth

Imran b.Hussain; A man came to the prophet & said my son's son has died, what do I get. Prophet(sas) said you get 1/6. When he turned away he called him and said you get another sixth. When he turned away he called him again and said the other sixth is an allowance.

Ahmed , Abu Dawood., Thirmidhi

True Grand Father

- **True Grand father (TGF)** is Grand Father with no female in between the person died and the grandfather. E.g.. Father's father (FF), or his father (FFF)...
- **Untrue Grand Father** is a grand father with a female between the person died and the grand father. e.g. Mother's father (MF), his father (MFF) or father's mother's father (FMF)
- Only True Grand Father is eligible

- TGF = GF with no female in lineage.
Eg.: FF, FFF...
- He is substitute for F – Inherits like F
- Substitutes for F or lower GF
- Secondary Heir
- Excluded by F
- Collaterals Excluded by GF one view
Get share with GF in another view

TGF Share

Grand Father becomes a heir in the absence of Father

As Fixed share	1/6	When there is male agnatic descendant S, SS, SSS
As Residuary	Entire Residue	No male or female agnatic descendant
As both	1/6 + Residue	When there is female agnatic descendant D, SD, SSD

GF differs from F on 3 occasions:

1. GF does not exclude FM like F
2. GF does not affect M share when other heir is spouse With F,M & spouse: M will get 1/3 of balance after spouses share. But with GF, M will get 1/3 of total.
3. GF with collaterals (Brothers & Sisters):
 - One view is collaterals are excluded by GF
 - Other view – collaterals get share with GF

Learn and remember this well

The 3rd situation arises when GF gets either:

1. 1/6 + bal in presence of D / SD or
2. balance alone when no Agnatic Descendants.

TGF + Collaterals : Difference of opinions

Brother & Sister Excluded	Brother & Sister get share
This view is reported from Aboobacker, Ibn Abbas, Ibn al Zubair, Abudarrda, Ubaibin Kaa'ab, Muad bin jabal, Abu Moosa al Ashaari, Ibn umer	Favoured by most companions of prophet., Zaid bin Thabith, Ali, Ibn Masoud, Students of Abu hanifa- Abu Yusuf & Muhammed
Accepted by Imam Abu Hanifa	Preferred by 3 Imams - Shafei, Maliki, Hambali,

The first view proposers argue that GF is identical to F and excludes all collaterals:

1. Collaterals cannot be equated with GF, he is bound to provide sustenance to grand children unlike collaterals
2. Gf inherits like F in dual capacity hence he acts like F and excludes collaterals
3. Gf & collaterals are not equal- Gf excluded by F only but collaterals by F & S, SS.
4. Gf is never excluded defacto but collat can be. e.g. H,M, 2D, Bf, Sf—verses *-H,M,2D,GF

Argument in favour of second view:

1. GF and Br & Sr are related to deceased thr single person F
2. Br. & Sr. are more in need of wealth than aged GF
3. Entire wealth may go to GF 's sons after his death
4. F and S both will get share together , So also GF and Br&Sr
5. F verses collaterals is specifically mentioned in Quran but not GF*collat.
6. Br. & Sr are related to F directly but not to GF
7. Collaterals share is mentioned in Quran and hence they are more in favour.
8. Gf is ascendant of F but B&Sr are descendants of F and hence more preferred.

Al Khuraqa Case

- The problem arises due to absence of any specific provisions in Quran or sunnah of Prophet (s.a.s)
- Origin of this problem : During sahabi's time
- A person died leaving **M, Sf, FF**
- The case is known as Al Khuraqa (The Tatters = Torn)
- Seven solutions were put forward, as below:

Sl.No.	Proposed by	Share of M	Share of Sf	Share of FF
1.	Aboobacker R.A	1/3	0*	2/3
2.	Ali R.A.	1/3	1/2	1/6
3.	Zaid b. thabith. R.A.	1/3	2/9	4/9
4.	Umer R.A.	1/6	1/2	1/3
5.	Uthman R.A	1/3	1/3	1/3
6.	Abdullah b. Masoud R.A.	1/6	0*	5/6
7.	Abdullah b. Masoud R.A.	1/4	1/2	1/4

The first view was accepted by Imam Abu Hanifa

The second view of simultaneous inheritance proposed by 5 people is accepted by:

1. Imam Maliki
2. Imam Shafei
3. Imam Abu Yusuf & Imam muhammed, Both are disciples of Abu Hanifa

Out of 7 solutions 1st one is accepted by Imam Abu Hanifa, 2nd and 3rd one are accepted by above 4 Imams and the others are discarded.

Rule of Exclusion

- Proposed by Aboobacker R.A.
- Accepted as Rule of Hanafi school inspite of opposition by his disciples.
- Brothers and sisters are completely excluded by GF like F

Rule of Simultaneous inheritance

1. Scheme of Ali R.A.
2. Scheme of Zaid B. Thabit R.A.

Accepted by Imams Shafei, Maliki & Hambali.

Scheme of Ali R.A.

Basic principles are same and the GF is given option to elect more advantageous rule.

1. In the presence of F.A.D.-D,SD normally Gf gets $1/6 + \text{bal}$. But with collaterals he takes either bal with Brother /Sister or $1/6$ whichever is higher.
2. No Agnatic descendants Normally GF is eligible for bal.
 1. With Brothers. GF is considered as residuary with Bf/Bc in the absence of agnatic descendants. He is treated as Bf or Bc. Sisters here become residuaries by their male counterparts.
 2. No Brothers but with sisters If sisters with Gf without Br, they take their Quranic share if otherwise competent

TGF has 2 options. He takes one with higher share among 2 options:

1. He takes his Fixed share of $1/6$
2. Or he takes balance with Bf or Bc. Sf and Sc here become residuary with Bf and Bc

If Bf or Bc are not there sisters take their Quranic share

TGF & Collaterals share can be summarised as:

	Condition	Share of Collaterals	Share of TGF
Presence of D/SD	Bf (and Sf)	Take bal with GF. Bc and sc excluded by Bf	$1/6$ or bal with Bf and Sf whichever is higher

	No Bf but Sf +	Sf goes for bal. Bc (Sc) excluded.	1/6
	No Bf, Sf but Bc (with Sc)	Bc takes bal with GF	1/6 or bal with Bc and Sc whichever is higher
	No Bf, Sf, Bc, but Sc+	Sc goes for bal	1/6
No D/SD	Bf (and Sf)	Take bal with GF. Bc and sc excluded by Bf	1/6 or bal with Bf and Sf whichever is higher
	No Bf but Sf +	Sf takes her fixed share. Bc goes for bal with GF	1/6 or Bal with Bc(Sc) which ever is higher.
	No Bf, No Sf But Bc (with Sc)	Bc takes bal with GF	1/6 or bal with Bc and Sc whichever is higher
	No Bf, Sf, Bc, but Sc	Sc takes fixed share	1/6 or bal whichever is higher
		Take bal with GF. Bc and sc excluded by Bf	1/6 or bal with Bf and Sf whichever is higher
	D/SD +	Sf goes for bal. Bc (Sc) excluded.	1/6
	No D/SD	Sf takes her fixed share. Bc goes for bal with GF	1/6 or Bal with Bc(Sc) which ever is higher.
		Bc takes bal with GF	1/6 or bal with Bc and Sc whichever is higher
	D/SD +	Sc goes for bal	1/6
	No D/SD	Sc takes fixed share	1/6 or bal whichever is higher
		Take bal with GF. Bc and sc excluded by Bf	1/6 or bal with Bf and Sf whichever is higher
	D/SD +	Sf goes for bal. Bc (Sc) excluded.	1/6
	No D/SD	Sf takes her fixed share. Bc goes for bal with GF	1/6 or Bal with Bc(Sc) which ever is higher.
		Bc takes bal with GF	1/6 or bal with Bc and Sc whichever is higher
	D/SD +	Sc goes for bal	1/6
	No D/SD	Sc takes fixed share	1/6 or bal whichever is higher

[\(Lesson8.html\)](#)
[Go to Lesson 10 – Calculation of shares: TGF\(Zaid bin Thabit's Scheme\) >> \(Lesson10.html\)](#)

Lesson 10

Calculation of shares: TGF(Zaid bin Thabit's Scheme)

Scheme of Zaid B. Thabit (compiler of Quran)

Accepted by Shafei, Maliki & Hambali schools

Main Features

1. Sf & Sc are converted into residuaries by GF in the absence of Bf or Bc unlike Ali's scheme. GF becomes residuary with Br / Sr.
2. GF will get minimum 1/3 of balance or balance with Br/Sr whichever is greater
3. In any case it should not be less than 1/6 his Quranic share
4. Disadvantage in this rule is that he cannot exclude Bc like Bf

Scheme of Zaid B. Thabit - Calculation

Make 3 calculations. GF goes for the calculation with higher share:

1. GF 1/6
2. GF taking 1/3 of balance.
3. GF as balance with Brother And Sister.

Presence of Bf+Sf with Bc+Sc:

Bc+Sc is included in share calculations because GF does not exclude them but after GF is allotted his share Bc/Sc share goes to Bf under disadvantage rule to GF

Here actually Bc+Sc reduce share of TGF.

Presence of Bf with or without Sf with Bc (with or without Sc):

Bc+Sc is included in share calculations because GF does not exclude them but after GF is allotted his share Bc/Sc share goes to Bf under disadvantage rule to GF

Here actually Bc+Sc reduce share of TGF.

Initial calculations are made strictly on the earlier said 3 calculations and GF is given his share and then afterwards Bc and Sc (with or without Sc) share is given to Bf and Sf (with or without Sf)

No Bf but Presence of Sf with Bc(+Sc) :

Bc+Sc is included in share calculations because GF does not exclude them. Here Sf also cannot exclude Bc or Sc but she reduces their share by increasing her share to the limit given to her ie 1/2 or 2/3.

Initial calculations are made strictly on the earlier said 3 calculations and GF is given his share and then afterwards Sf share is increased to her Quranic share. Whatever the balance left is shared by Bc and Sc

Scheme of Zaid B. Thabit - Summary

Conditions	Share of Collaterals	Share of TGF
Bf (and Sf)	Take bal with GF. Bc and sc included for share calculations but after Gf share is given their share is taken by Bf+Sf	Make 3 calculations. 1. Gf getting 1/6
No Bf but Sf +	Sf goes for bal with Gf. If Bc or Sc is there they are included for share calculations but after Gf share is given Sf share is increased to her fixed share the rest is given to Bc and Sc	2. Gf getting 1/3 of balance after other fixed shares are given
No Bf, Sf but Bc (with Sc)	Bc takes bal with GF	3. Gf getting balance with Br and Sr.
No Bf, Sf, Bc, but Sc+	Sc goes for bal	Which ever share is higher Gf goes for that

TGF - Sum up

Pr./Sec	Secondary Heir
Excluded by	F
They exclude	All Bu & Su, higher GF In One view Brothers/sisters (f,c)
Share fraction	As above
Effect on others	Excludes as above
Effect of others	F excludes, Br, Sr reduce/not reduce shares
Effect of Awl	Share reduces
Effect of Radd	Eligible
Special occasion	Gf with collaterals

Lesson 11

Asaba (Balance heirs)

Also called Balance share heirs

Quranic verses show the sharing between Male & Female S & D, Br & Sr.

Double share to male as the general rule.

Shows the greater financial burden on male members, Agnates, assigned by the Creator Himself.

Prophet's Hadeeth:

- Ibn Abbas : Prophet said; Give the faraid to those who is entitled to receive it and the remaining should be given to the closest male relative of the deceased.
- Imran b.Hussain; A man came to the prophet & said my son's son has died, what do I get. Prophet said you get 1/6. When he turned away he called him and said you get another sixth. When he turned away he called him again and said the other sixth is an allowance.

Based on Quran and sunnah of Prophet it is clear that the nearest male relative will take the residue

Classification of Asaba

Group 1	All male Agnates. In their own right	S, SS, SSS, F, FF, Bf, Bc, BfS, BcS, Puf, Puc, PUfS, PUcS
Group 2	4 Female Agnates. In the presence of others. When they coexist with other M counterparts	D, SD, Sf, Sc S, SS, Bf, Bc
Group 3	2 female Agnates With others	Sf, Sc with D /SD

Group 1 in order

1.	Descendants	S, SS, SSS...
2.	Ascendants	F, FF, FFF...
3.	Collaterals a) descendants of F b) descendants of FF c) descendants of FFF	Bf Bc BfS BcS BfSS BcSS BfSSS BcSSS..... PUf PUc PUfS PUcS PUfSS PUcSS PUfSSS PUcSSS... FPUf FPUc FPUfS FPUcS FPUfSS FPUcSS FPUfSSS FPUcSSS...

Principle of distribution

Agnatic Heirs will inherit:

1. If there are no Quranic heirs.
2. If there are Quranic heirs, after assigning shares to them.
3. Nearest will take the entire residue.

Asaba - priority

1. ORDER	2. DEGREE		3. STRENGTH OF BLOOD TIE
Descendants	S	SS	-
Ascendants	F	FF	-
Collaterals	Bf, Bc	BfS, BcS	Bf Bc

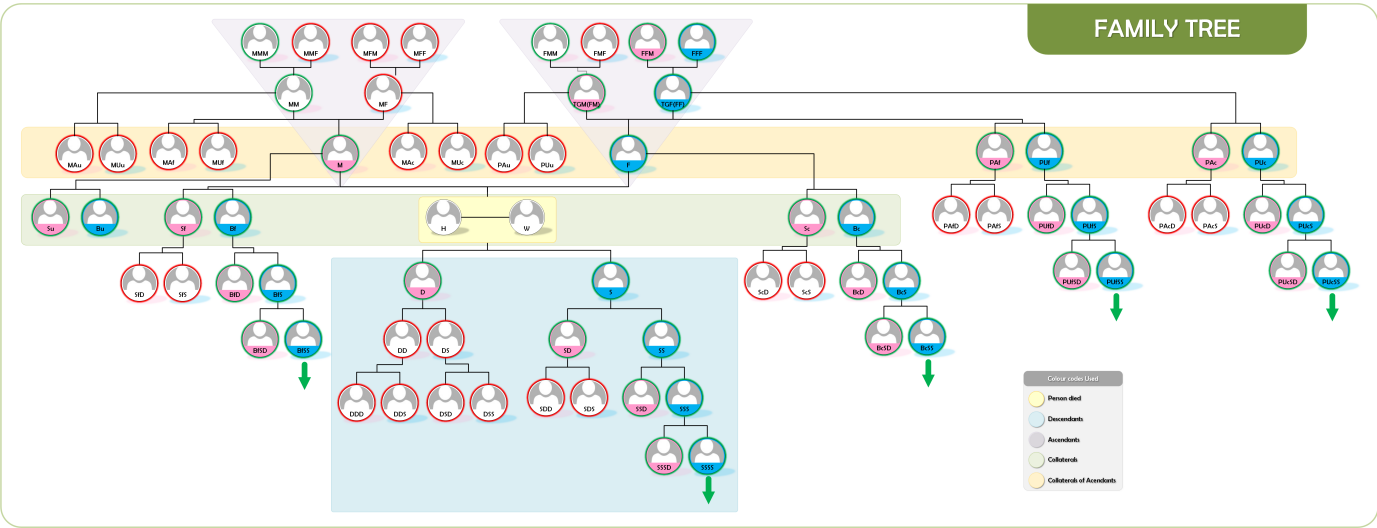
How Asaba heirs are arranged?

The order of balance heirs is such that whoever is first in the list will inherit the balance. If first one is not there second in the list will inherit.

In the list above if S is alive all others will be excluded for balance heir. If S is not alive SS will take the balance and likewise next in the list.

Order of balance heirs	
S	If S is alive He will take the balance
SS	If S is not alive SS will be balance heir
SSS	No S, SS then SSS is balance heir
F	No S, SS, SSS then F is balance heir
TGF	No S, SS, SSS, F then TGF is balance heir
Bf	No S, SS, SSS, F, TGF then Bf is balance heir
Sf	No S, SS, SSS, F, TGF, Bf but D/SD/SSD alive Then Sf is the balance heir
Bc	No S, SS, SSS, F, TGF, Bf, (Sf+D/SD) Then Bc is the balance heir
Sc(in the presence of D/SD)	No S, SS, SSS, F, TGF, Bf, Sf, Bc but D/SD alive Then Sc is the balance heir
BfS	No S, SS, SSS, F, TGF, Bf, (Sf+D/SD), Bc, (Sc+D/SD) Then BfS is the balance heir
BcS	No S, SS, SSS, F, TGF, Bf, (Sf+D/SD), Bc, (Sc+D/SD), BfS Then BcS is the balance heir
BfSS	No S, SS, SSS, F, TGF, Bf, (Sf+D/SD), Bc, (Sc+D/SD), BfS, BcS Then BfSS is the balance heir
BcSS...	No S, SS, SSS, F, TGF, Bf, (Sf+D/SD), Bc, (Sc+D/SD), BfS, BcS, BfSS Then BcSS is the balance heir
BfSSS	
BcSSS....	List can continue..
Puf	
Puc	
PufS	
PucS	

PufSS	
PucSS...	
FPuf	
FPuc	
FPufS	
FPucS	
FPufSS	
FPucSS...	



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Lesson 12

Radd & Awl

Radd: If there are no balance heirs after allocating the fixed shares, then balance goes to the fixed heirs.

When fixed shares are allotted three situations can arise:

1. Shares add up to unity = no balance.
2. Shares add up to less than unity or 1 = Balance goes to a) balance shares or b) If no balance heirs - Radd
3. Shares add up to more than unity or 1 = Awl

Radd - Excess share

If **nobody is alive** to take balance share **after the fixed share is given**, and there is balance left then it is called as excess share and is returned to the people with **fixed share**. This is called **Radd or Return**

H & W are not eligible for Radd except when distant relatives are not there.

Umer R.A., Ali R.A. and most sahabies, Hanafi, Hanbali agree with Radd.

Shafei school agree if baithul maal is not functioning.

But Maliki school is against Radd based on Zaid b. thabith

Radd - Difference of opinions:

There are different opinions about Radd:

1. Radd is not to be given. Property should go to baithul maal.
2. Radd is not allowed. But if properly functioning baithul maal is not there then Radd is allowed.
3. Radd is allowed in the absence of balance heirs. H & W are also included.

4. Radd is allowed but excluding H & W.

Last one is accepted by most.

Points against Radd:

1. Quran mentions a fixed share to heirs. Hence it is against Quran to give balance to fixed heirs.
2. Quran or sunnah has not made any provision for fixed heirs to get balance. Hence it should go to Baithul maal.

Most scholars in Shafei school also agree with this, only if properly functioning baithul maal is present. In the absence of baithul maal Radd is allowed by them.

Usman b. Afwaan R.A feels that H & W are also eligible for Radd as they are subject to awl also.

Ali R.A feels that TGM is not eligible for Radd

Points in favour of Radd:

1. Quranic verse " Near blood relations are eligible for more shares between them" is the basis.
2. Once one lady came and told prophet S.A. that she donated one servant to her mother and later her mother died. Prophet said you will get reward for what you have donated, at the same time you can take the servant as your inheritance.
3. Saad b abivakhas was ill. Prophet s.a. visited him and allowed only 1/3 as waseeyat. He had only one daughter. If D gets only ½ prophet would have allowed ½ as waseeyat.
4. Property goes to baithul maal if there is nobody to inherit.
5. Prophet s.a. gave entire property to Mula'anaat when her son died. If excess share is not to be given prophet would not have ordered this.

Radd - Methods:

- When H/W is present
 1. Allot the shares to Quranic heirs and the balance is reallocated to those eligible for Radd in proportion o their Quranic shares.
 2. The whole balance after the spouses share is given to those remaining in proportion to their Quranic shares.
- When H/W is not there then the whole balance is allotted to Quranic heirs in proportion to their Quranic shares.

Radd - Steps:

1. Calculate the balance share (b) available for heirs who is eligible for Radd. If H/W is there it is after their share is given.
 $b = 1 - H/W$. If H/W is not there then $b = 1 - 0 = 1$. This is the share available for division among Quranic heirs
2. Find out the ratio of shares of those heirs. This is done by making the denominator common. E.g.;
 $1/2 : 1/6 = 3/6 : 1/6$. The ratio is 3:1.
3. Now add up the ratio. The idea is to make the denominator equal to the numerator. $3+1=4$. $3/6 : 1/6$ becomes $3/4 : 1/4$
4. Now multiply the balance b with this new fraction, which gives the share in proportionate to their Quranic shares.

Awl

When fixed shares are allotted three situations can arise:

1. Shares add up to unity = no balance.
2. Shares add up to less than unity or 1 = goes to balance or Radd
3. Shares add up to more than unity or 1 = Awl

Awl = increase. Actually shares are reduced for each heir. Only the fractions are increased.

This happens only if D / Sister class heirs are present.

Awl - Steps:

1. Reduce the fractional shares to common denominator.
2. Add the numerator.
3. Change the denominator to that of numerator.
4. Allot the shares now.

E.g.: H , 2Sf

$H = 1/2$, $2Sf = 2/3$,

1) $1/2 + 2/3 = 3/6 + 4/6 =$

2) $7/6$

3) $7/6$ becomes $7/7$

4) $H = 3/6$ becomes **$3/7$** and $Sf = 4/6$ becomes **$4/7$**

Awl History - Difference of opinions:

There is a difference opinion as to who first introduced Awl:

1. Umer (R.A) . A lady died leaving H, 2Sf. The case was brought to him. He consulted with all sahabies. Abbas R.A. suggested awl as his answer. It was accepted.
2. Ali (R.A). Was delivering a sermon. He was asked about share of a widow whose husband died leaving F,M,2D. Immediately Ali r.a. replied wife's $\frac{1}{8}$ becomes $\frac{1}{9}$.

Fiqh scholars have grouped divisions in shares as 7 groups. 2, 3, 4, 6, 8, 12, 24. Awl is applicable to only 6, 12, 24

6 becomes	7	H, Sf, Sc
	8	H, Sf, 2Su
	9	H, Sf, Sc, 2Su
	10	H, Sf, Sc, 2Su, M
12 becomes	13	H, 2D, M
	15	H, 2D, M, F
	17	W, 2Sf, M, 2Su
24 becomes	27	W, 2D, F, M

Lesson 13

Distant Relatives

Distant blood relatives are also called as other blood relatives or Dhavil Arhaam. All blood relatives not included in fixed heirs or balance heirs are included in this.

In the absence of fixed share heirs (except H/W) and balance heirs, other blood relatives become the heirs. Exception to this is presence of H/W as fixed heir. They do not get Radd. Even if H/W is there they do not get Radd hence the balance goes to other blood relatives. Only if other blood relatives are not there then the balance may go to H/W as Radd, before going to baithul maal.

Difference of opinion

There is a difference of opinion among sahabees and scholars regarding inheritance of other blood relatives.

Two views are:

1. They do not have inheritance rights. Favoured by Aboobaker, Uthman Said. Suhri, Ousaai, Dawood etc. Zaid bn Thabith also of this opinion.

Shafei and Maliki school of thought take this view.

2. They get inheritance – favoured by Ali, Umer, Abu ubaida al Jarrah, Muad bin Jabal, Abu al Darda, Ibn Abbas, Ibn Masoud.

Aboo Hanifa, Ahmed bn hambal take this view.

Both views are supported again by Quran and Hadeeth.

Quranic Verses

The evidence in support of the claim are:

لِلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ
مِنْهُ أَوْ كَثُرَ نَصِيبًا مَفْرُوضًا

There is a share for men from what is left by parents and those nearest related, and there is share for women from what is left by parents and nearest related, whether the property be small or large, a decided share

{Surah Al Nisa' : 7}

وَلِكُلٍّ جَعَلْنَا مَوَالِيَّ مِمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلَّذِينَ عَقَدْتَ أَيْمَانُكُمْ فَأَتَوْهُمْ نَصِيبُهُمْ إِنَّ اللَّهَ
كَانَ عَلَى كُلِّ شَيْءٍ شَهِيدًا

To every one We have appointed shares and heirs to property left by parents and relatives. To those also to whom your right hand was pledged give them due portion for truly God is witness to all things.

{Surah Al Nisa' : 33}

النَّبِيُّ أَوْلَىٰ بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ وَأَزْوَاجُهُ أُمَّهَاتُهُمْ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ فِي كِتَابِ
اللَّهِ مِنَ الْمُؤْمِنِينَ وَالْمُهَاجِرِينَ إِلَّا أَنْ تَفْعَلُوا إِلَىٰ أَوْلِيَائِكُمْ مَعْرُوفًا كَانَ ذَٰلِكَ فِي الْكِتَابِ مَسْطُورًا

Blood relations among each other have close personal ties, in the decree of God than the brother hood of Muhajirs and believers. Nevertheless do ye what is just to your closest friends, such is the writing in the decree of God

{Surah Al Ahzab : 6}

وَالَّذِينَ آمَنُوا مِنْ بَعْدِ وَهَاجَرُوا وَجَاهَدُوا مَعَكُمْ فَأُولَٰئِكَ مِنْكُمْ وَأُولُو الْأَرْحَامِ بَعْضُهُمْ أَوْلَىٰ بِبَعْضٍ
فِي كِتَابِ اللَّهِ إِنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ

And those who accept faith subsequently and adopt exile and fight for faith in your company they are of you, But kindred by blood have prior rights against each other in the Book of God verily God is well acquainted with all things.

{*Surah Al Anfal : 75*}

Argument in favour DR of getting inheritance

1. Sabithubn dahdaa'a when died Propeht(sas) enquired about his relatives. Abu lubaanathibn Abdul mundir was the only relative as his sister's son available. He was given the property.
2. Sahlubn haneef was killed. He did not have any inheritors or relatives except maternal uncle. Abu ubaidathabnul jarraah asked Umerul farooq. He said I heard the Prophet(sas) as saying One who does not have any protector Allah and His apostle are his protectors. One who does not have inheritors maternal uncle is his heir.

Argument against DR getting inheritance

1. There is no definitive evidence or mentioning of distant relatives in Quran or prophet's sunna. Hence distant relatives cannot be considered as heirs.
2. About father's sister and mother's sister Prophet (sas) said like this- Jibreel has informed me that both of them do not have any share in the property.

Distant Relatives - Order of priority

The 4 classes of distant relatives are arranged in order of priority. Within each group the order is based on following principles.

1. Nearer in degree excludes more remote.
2. If degree is the same then children of sharer/ residuary are given preference
3. When equal in degree and the status (all of them or none of them children of sharer or residuary) then they inherit simultaneously.
4. When equal in degree and status the rule double share to male is applied.

Distant Relatives - Class 1

Class 1 includes :

1. Children of daughter and their descendants.
2. Children of son's daughter and their descendants.

The order of priority becomes:

Children of Sharer	Children of Distant Relation
1. DD, DS	
2. SDD, SDS	3. DDD, DDS, DSD, DSS
4. SSDD, SSDS	5. DDDD, DDDS, DDSD, DDSS, DSDD, DSDS, DSSD, DSSS, SDDD, SDDS, SDSD, SDSS

When the claimants are of equal degree two situations can arise

1. Only the claimants differ in sex but the intermediaries are of the same sex. Here simple rule double share to male is applied.
2. Intermediaries also differ in sex. In this case there are two opinions among hanafi scholars, based on two students of Aboo Hanifa.

As per Imam Yusuf the difference in the sex of the intermediaries is not taken into account.

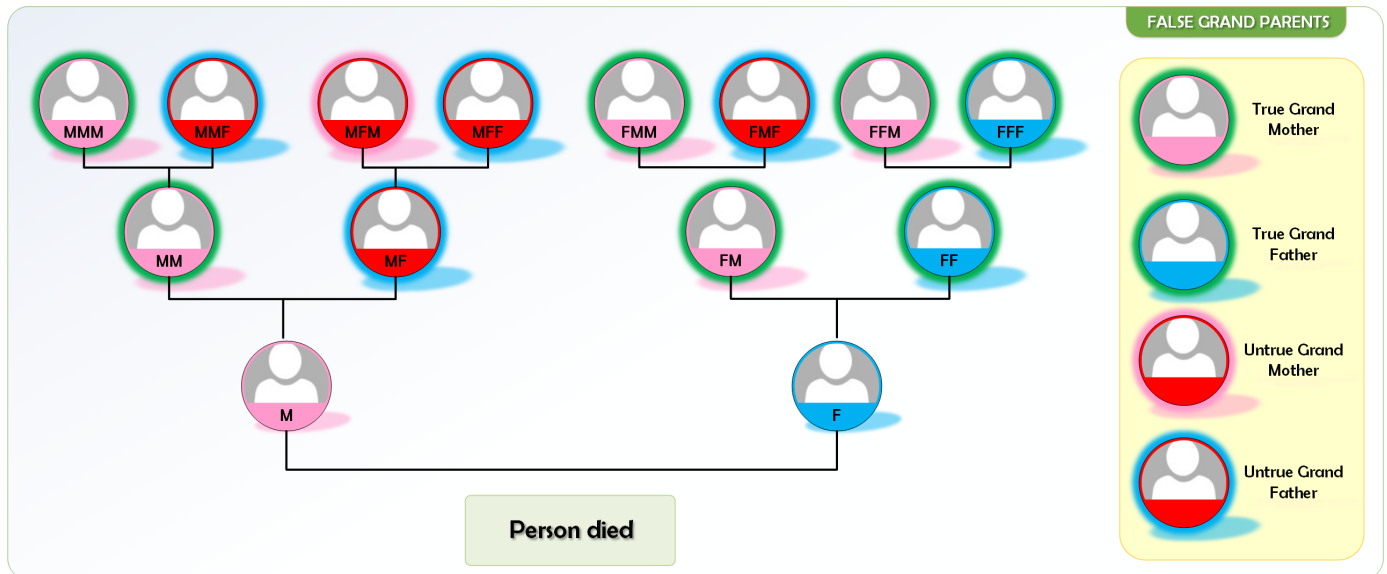
As per Imam Mohammed the difference in the sex of the intermediaries is also taken into account as well as the number of branches the actual claimants represent is taken into consideration.

Distant Relatives - Class 2

Class 2 of distant relatives are the ascendants of the deceased. They become eligible in the absence of Class 1.

They include:

1. False grandfathers.
2. False grand mothers.



The order is based on the following principles:

1. Nearer in degree excludes more remote.
2. If degree is the same then those related through sharer are given preference.
3. When equal in degree and the status (all of them or none of them children of sharer) then they inherit simultaneously. If both from paternal side and maternal side are present then paternal side is given 2/3 and maternal side 1/3.
4. When equal in degree and status and on the same side the rule double share to male is applied.

The order of priority becomes:

Order		Share
1. MF		Whole
2. FMF, MMF	a) FMF + MMF	FMF = 2/3 (Paternal side), MMF = 1/3
	b) FMF only	Whole
	c) MMF only	Whole
3. MFF, MFM	a) MFF + MFM	MFF = 2/3, MFM = 1/3 both maternal but male gets double
	b) MFF	Whole
	c) MFM	Whole

The fourth generation of False grand parents are a remote possibilities and if they are there same principles are applied. It is not discussed here.

Distant Relatives - Class 3

Class 3 of distant relatives are the descendants of parents. They become eligible in the absence of Class 1 & Class 2.

The following are the Class 3 DR, and is not in order:

- Full brother's daughters and their descendants.
- Consanguineous brother's daughters and their descendants.
- Uterine brother's children and their descendants.
- Full brother's son's daughters and their descendants.
- Consanguineous brother's son's daughters and their descendants.
- Sisters (all three) children and their descendants.

The order is based on following principles:

1. Nearer in degree excludes more remote.
2. If degree is the same then those related through residuary are given preference.
3. If all of them are either children of residuary or all are not children of residuary then full blood excludes consanguineous and consang excludes uterine. within each group they equally divide.
4. When equal in degree and status and on the same side the rule double share to male is applied.

If all of them are either children of sharer or residuary or all are not children of sharer or residuary then they equally divide. Here again there are two schemes like in Class 1. Again Imam Yusuf feels Uterine descendants share double share to male but as per Imam Mohammed uterine descendants share equally. As per Yusuf claimants take the share without considering intermediaries. but in Mohammed's scheme the preceding generations are allotted shares as per their Quranic or balance shares and then divided among claimants. Hence Radd is possible if preceding generations are of fixed share origin.

Distant Relatives - Class 4

Class 4 of distant relatives are Descendants of grandparents. They become eligible in the absence of Class 1, 2 & 3.

The following are the Class 4 DR, and is not in order:

- Full Paternal Uncle's daughters & son's daughters and their descendants.
- Consanguineous Paternal Uncle's daughters & son's daughters and their descendants.
- Uterine Paternal Uncle's children and their descendants.
- Full Paternal Aunt's children and their descendants.
- Consang. Paternal Aunt's children and their descendants.
- Uterine Paternal Aunt's children and their descendants.
- Maternal uncles and aunts (full, consang, uterine) and their descendants.

The order is based on following principles:

1. Nearer in degree excludes more remote.
2. If same degree children of residuary are preferred.
3. If all of them are either children of residuary or all are not children of residuary then they equally divide.
4. If claimants are equal and on both sides paternal side is given 2/3 and maternal side 1/3.
5. On each side full blood is preferred over consanguineous, consanguineous is preferred over uterine. This preference is restricted to only one side, it cannot cross over to the other side and exclude on other side.
6. When all the above are same then male gets double share.

Again there are differences in Imam Yusuf's scheme and Imam Mohammed's scheme.

Imam Mohammed does not agree uterines to be excluded by full or consanguineous.

Imam Mohammed's allotment also differs in relation to the sex of the intermediaries like in class 1 and 3. Also Uterines share equally.

Lesson 14

Special Cases & Waseeyat

In this lesson we will be considering some special cases and Waseeyat.

Disappearance

A person has disappeared and his whereabouts are not known is considered alive till he is declared dead by a court or confirmed death.

When to pronounce a person dead : There is difference of opinion:

- Some feel it is 4 years for some occasions like war, calamities,
- Others feel it should be till the life expectancy of an equal aged person in the locality. It is regarded as 70 by some (Maliki) and 90 by others (Hanafi).

It is left to the Islamic court to decide as to when to pronounce a person dead (Shafi and Hanbali).

All the above is only for inheritance. If a husband disappears then the waiting period is short. E.g. 4 years or 7 years.

There can be 2 situations:

1. Property of the disappeared person.
2. He becomes a heir after some of his relatives death.

- So his property is not be inherited, Set aside.
- He is considered alive till the confirmation of death or declared dead by court.
- If any relative dies before this confirmation, the relative does not inherit.
- His property is not divided.
- If confirmed death or declared death by court property is to be divided.
- Inheritance starts from the date death or date of court decree.
- Only the heirs who are alive at the time of death or court decree are eligible.

- If a person declared dead by court returns then he is eligible for his estate which has gone to his heirs.
- If he is a heir his share is kept separate.

Person has disappeared:

1. His property is kept aside till he returns or declared dead or confirmed death.
2. If he is heir- his share is kept separate and for others minimum share is given.

If he is a heir. There are 2 possibilities:

1. He excludes all others - property is kept separate. E.g. S, Bf, Sf - S disappeared.
2. Inherits with others. His share is kept separate. Others share is calculated as if he is alive, and dead and whichever is lowest for others that is given. E.g. M, W, Bf, Bc - Bf disappeared.
M = 1/6 given (2 brothers), W = 1/4 given, Bf balance kept separate, Bc nil. If Bf is pronounced dead then M will get extra 1/6 and the balance Bc will take.

Once the share is kept separate 3 things can happen:

1. He returns alive- his share is given to him.
2. He is declared dead -If it is confirmed that disappeared person was alive at the time of death of the propositus his share is given to his heirs.
3. If it is confirmed that he was dead before the death of the propositus then his share kept aside is given to the heirs of the deceased person and the heirs of missing person do not inherit.

For other heirs calculations are made as if the disappeared person is dead and alive both. Whichever is lowest share that is given.

Example: H, 2Sf, Bf – Bf disappeared.

1. Bf as alive: $H = 1/2$, $2Sf + Bf = \text{balance} = 1/2$, $Bf = 2/8$, $2Sf = 2/8$
2. Bf as dead: $H = 1/2$, $2Sf = 2/3$, $H = 3/6$, $2Sf = 4/6$, Awl is applied: $H = 3/7$, $2Sf = 4/7$

H share is lowest when Bf is dead, Sf share is lowest when Bf is alive, Both these lowest shares are given to them.

$H = 3/7$, $2Sf = 2/8$, Balance = 18/56 is kept separate.

If Bf is confirmed dead then 18/56 goes to Sf.

If Bf returns then 4/56 to H and balance 14/56 to Bf.

Accidents

Accidents where more than 1 death occurs are considered here.

If the sequence of death as to who died is not known, then people who died do not inherit each other.

If a person's death is known to be preceded by another then second person is considered as heir to the first person.

Example: H & W1 die together leaving W2, one son from each.

W1 property will go to S1.

H's property will go to S1, S2 and W2.

Dual Relationship

A heir may be related to the deceased through more than one relationship. In such a case he may act as a fixed heir as well as balance heir.

In such cases he will inherit as both fixed heir and balance heir separately calculated.

This happens if there is consanguinity in the family.

Example: Wife dies leaving heirs H, D, and Husband as the Paternal Uncle's Son. Here the lady has married her cousin Paternal uncle's son. He is her Husband as well as PufS.

So the calculation becomes:

$$H = 1/4$$

$$D = 1/2$$

Balance = 1/4. Here Husband is the PufS takes the balance.

$$H = 1/4 + 1/4 = 1/2$$

This can happen if there is consanguineous marriages in the family.

In such occasions an heir may inherit in dual capacity.

Illegitimate child

- A child born out of marriage wedlock is an illegitimate child.
- Similarly if a man brings an allegation of adultery on his wife and they are separated by Liyan then the child born out of their relationship is also included as an illegitimate child.
- An illegitimate child does not inherit from Father and the father does not inherit from the child even if the identity of father is known.
- The child inherits from Mother and vice versa.
- Children of an illegitimate person will inherit from him/her as per the normal rules of inheritance.
- But he/she will not have agnatic ascendants or agnatic collaterals.
- Only heirs inheriting from him/her are Mother, Brother/Sister Uterine, True grand mother as sharers.

This is accepted by all schools of thought Shafei, Hanafi, Maliki, Hanbali.

If there are no agnatic descendants then there arises a problem in distribution of balance share.

- **Hanafi Fiqh** - Sharers act as balance heirs by way of Radd.
- **Hanbali** - If Mother is alive she acts as balance heir. A person who born after Liyan will be inherited by his mother and if mother is not there her balance share relatives. This was the saying of the prophet (SAS) as quoted by Amr Bin Shuib.
- **Maliki** - Balance goes to Baithul Maal. This is the opinion of Zaid bin Thabith (R.A)
- **Shafei** - Balance goes to Baithul Maal but if Baithul Maal is not functioning then Radd is allowed.

Unborn child

There may be different situations:

1. Born dead – No inheritance
2. One male
3. One female
4. Two males
5. Two females
6. One male + one female

General Rule: Share of the child and other heirs is calculated as both for male /female child. Whatever is the maximum share for the child, it is kept separate. For others minimum share is given.

Unborn child - Conditions

1. Should be born alive

Hadeeth: If the child cries he /she becomes a heir (Abu huraira)

If the child is born dead or dies during delivery it does not inherit.

The child should be in mother's womb i.e.; mother should have conceived.

If every heir agrees then it is better if the property is kept aside till the child is born.

1. No share at all: W, 2Sf, M, father's pregnant wife.

If child is male he is Bc = bal = nil, no balance. If female Sc = nil excluded by Sf

2. No change if male/ female.

If the child becomes Bu/Su, if M is pregnant with second marriage.

3. Child either inherits or not. H, M, 2Su, pregnant wife of father. If male child, Bc = bal = nil, no balance left. If female, Sc = 1/2 share by Awl it becomes 3/9. Kept aside.

4. Inherits but share differs. pregnant wife and F.

if child is male S = bal = 17/24, if female daughter = 1/2 = 12/24. 17/24 kept.

5. Inherits all: father's pregnant wife.

If child is male = bc = bal = whole property,

if female Sc = 1/2 + Radd = whole balance.

Hermaphrodite

Hermaphrodite is a person whose sex is doubtful. They may be:

1. Male predominant.
2. Female predominant.
3. Ambiguous (doubtful) sex. Who may grow into either male or female or uncertain sex at puberty.

First type is considered as male, second as female, the third type opinions differ.

There are difference of opinion on property division for hermaphrodites. As per Imam Abu Hanifa: in whichever sex the share is lowest that is given.

If bisexual has the possibility of transformation into male or female, one among the different ways is chosen:

1. Division is kept pending till sex is evident.
2. Share is calculated both as male and female and in whichever sex share is lowest that is given.
Most of the companions of the prophet(sas) are of this opinion - **Hanafi**
3. Give the least share and the other share considering the maximum share is kept aside till the sex is evident - **Shafei , Hanbali**
4. Calculate as both male and female and take the mean and that is kept aside - **Maliki**
5. Everyone is given the lowest share the rest is kept aside till the sex is known.

Waseeyat or Will

Waseeyat - Quranic Verses

كُتِبَ عَلَيْكُمُ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنِ تَرَكَ خَيْرًا الْوَصِيَّةُ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ {180} فَمَنْ بَدَّلَهُ بَعْدَ مَا سَمِعَهُ فَإِنَّمَا إِثْمُهُ عَلَى الَّذِينَ يُبَدِّلُونَهُ إِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ {181} فَمَنْ خَافَ مِنْ مُوصٍ جَنَفًا أَوْ إِثْمًا فَأَصْلَحَ بَيْنَهُمْ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ {182}

180. It is prescribed, when death approaches any of you, if he leave any goods that he make a bequest to parents and next of kin, according to reasonable usage; this is due from the Muttaqeen (God fearing).

181. If anyone changes the bequest after hearing it, the guilt shall be on those who make the change. For Allah hears and knows (All things).

182. But if anyone fears partiality or wrong-doing on the part of the testator, and makes peace between (The parties concerned), there is no wrong in him: For Allah is Oft-forgiving, Most Merciful.

{Surah Al Baqara : 180-182}

يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَادَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِنْكُمْ أَوْ آخَرَانِ مِنْ غَيْرِكُمْ إِنْ أَنْتُمْ صَرَبْتُمْ فِي الْأَرْضِ فَأَصَابَتْكُمْ مُصِيبَةُ الْمَوْتِ تَحْبِسُونَهُمَا مِنْ بَعْدِ الصَّلَاةِ فَيُقْسِمَانِ بِاللَّهِ إِنْ أَرْتَبْتُمْ لَا نَشْتَرِي بِهِ ثَمًّا وَلَوْ كَانَ ذَا قُرْبَى وَلَا نَكْتُمُ شَهَادَةَ اللَّهِ إِنَّا إِذَا لَمِنَ

الْأَثِمِينَ (106) فَإِنْ غُثِرَ عَلَىٰ أَنَّهُمَا اسْتَحَقَّ إِثْمًا فَآخَرَانِ يَقُومَانِ مَقَامَهُمَا مِنَ الَّذِينَ اسْتَحَقَّ عَلَيْهِمُ الْأُولَيَانِ فَيُقْسِمَانِ بِاللَّهِ لَشَهَادَتُنَا أَحَقُّ مِنْ شَهَادَتِهِمَا وَمَا اغْتَدَيْنَا إِنَّا إِذَا لَمِنَ الظَّالِمِينَ {107}. ذَلِكَ أَدْنَىٰ أَنْ يَأْتُوا بِالشَّهَادَةِ عَلَىٰ وَجْهِهَا أَوْ يَخَافُوا أَنْ تُرَدَّ أَيْمَانٌ بَعْدَ أَيْمَانِهِمْ وَاتَّقُوا اللَّهَ وَاسْمَعُوا وَاللَّهُ

(لَا يَهْدِي الْقَوْمَ الْفَاسِقِينَ 108)

106. O ye who believe! When death approaches any of you, (take) witnesses among yourselves when making bequests,- two just men of your own (brotherhood) or others from outside if ye are journeying through the earth, and the chance of death befalls you (thus). If ye doubt (their truth), detain them both after prayer, and let them both swear by Allah. "We wish not in this for any worldly gain, even though the (beneficiary) be our near relation: we shall hide not the evidence before Allah. if we do, then behold! the sin be upon us!"

107. But if it gets known that these two were guilty of the sin (of perjury), let two others stand forth in their places,- nearest in kin from among those who claim a lawful right: let them swear by Allah. "We affirm that our witness is truer than that of those two, and that we have not trespassed (beyond the truth): if we did, behold! the wrong be upon us!"

108. That is most suitable: that they may give the evidence in its true nature and shape, or else they would fear that other oaths would be taken after their oaths. But fear Allah, and listen (to His counsel): for Allah guideth not a rebellious people.

{Surah Al Maida : 106-108}

مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ آبَاؤُكُمْ وَأَبْنَاؤُكُمْ لَا تَدْرُونَ أَيُّهُمْ أَقْرَبُ لَكُمْ نَفْعًا فَرِيضَةٌ مِّنَ اللَّهِ

إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

After the payment of legacies and debts. You know not whether your parents or your children are nearest to you in benefit. These are the portions ordered by Allah; Allah is All knowing All wise.

{Surah Al Nisa' : 11}

Waseeyat - Hadeeth

Ibn Maja reported from Jabir :

Whoever has died with a waseeyat, he has died on the straight path, sunnah of the prophet, with piety, and with all his sins forgiven.

Thirmidhi, Ahmed, Ibn Maja, Abu dawood.

Hadees quoted by AbuHurraira, Prophet(sas) said:

A man might perform actions of righteous people for seventy years but when it is time to compile his will commits injustice and because of this he enters the Fire. Similarly a man might perform ill deeds for seventy years but leaves a fair will and thus enters paradise.

Waseeyat - Difference of opinion

1. Some feel that It is a must.
2. Some others feel It is a must for those who do not get any share in the property.
3. Some feel that both opinions are not correct but rules keep changing depending on situation. Most scholars agree for this. There are different situations:
 1. **Must** - If one has certain obligations towards Allah and humans and if he feels that it may not be implemented after his death , then making a will becomes must on him. E.g. Dues to Allah and persons. pending Zakath, Hajj
 2. **Optional** - Poor relatives, good friends in need, for good causes. : When the property is less and the inheritors are there it is undesirable, Likewise to make waseeyat to somebody who uses wealth in an unislamic way is also undesirable. Rich person to make a will for relatives is Permitted & favoured
 3. **Prohibited** - Will to prevent heirs getting the inheritance.

When waseeyat ayah in Surah Al Baqara was revealed it was a command.

Then later on when the inheritance verses were revealed this ayah became Mansukh.

But considering prophet's hadees and the inheritance verses in which it says " after fulfillment of waseeyat", following deductions can be made:

1. There is no waseeyat for heirs.
2. Exceptionally, it may be done for heirs if they are very poor but consent of the other heirs should be there during implementation.
3. For close relatives who do not get shares writing a waseeyat on them becomes a must. E.g.. Parents of a different religion. Parents who are excluded as heirs, relatives who are otherwise excluded.

4. It should not be more than 1/3
5. Waseeyat should be based on amount of wealth and the condition of the person on whom it is written (Ma'roofa)
6. If a person has the property then it is advisable to make a waseeyat, as Allah has with His mercy given the final chance to have a good deed after death. It was encouraged by Prophet (sas)

Waseeyat - Method

By writing or by mouth. As per Surah Al Maida:106 there should be 2 good witnesses.

A person before his death can alter or cancel it.

After death nobody can alter it if it is according to Islamic sharia.

Waseeyat - Conditions

1. One who writes the will – Should be sane, adult, not a playboy. An adult by definition is the one who reached puberty-menstruation in girls and ejaculation in boys. If it is not sure then 15 years is taken as the age.
2. On whom will is written – he should not be a heir., he should be alive. This situation is at the time of person's death. Exceptions: Person makes waseeyat on brother in the absence of child. Waseeyat is not valid .But he gets a son and dies with the same waseeyat. Waseeyat becomes valid one.
3. Property. Should not exceed 1/3 of the property at all occasions. But Abu Hanifa feels that if there are no successors then it can be more than this. Prophet's(sas) Hadeeth.- Don't leave your children...
4. The Will - It can be on any person (except a heir,) or masjids, charitable institutions, islamic centres, other institutions, or without any specific names like the poor orphans etc.

It can be oral by mouth or written. 2 witnesses are required. Some consider a written waseeyat without witness as valid one.

In non islamic countries it is better it is written as per the law of that country eg attestation before judge or notary where it becomes a legally valid will.

There is a difference of opinion as to whether 1/3 of the property at the time of waseeyat or at the time of death. Many feel that it is the 1/3 of the property at the time of death.

Difference between will and gift

A gift or Hiba is done during the life of a person and all transactions are over before the death of a person. But in Will person declares a certain thing which is implemented after the death of the person. A gift made during dying hours is considered as will.

Invalid Waseeyat

1. Mentally ill person.
2. Person on whom is written dies before the 1st person.
3. If the property is lost before the death.
4. If the person on whom waseeyat is written kills the person. Some accept the will if it is made after the fatal act but before the death of the person. – maliki, hanbali
5. On a heir.

Advise on Waseeyat

- If it is a must write a waseeyat and keep.
- If you have property Allah has given you a chance to do good at the time of your death. Write a will and keep.
- Along with the waseeyat about the property you can specify about the do's and don'ts to your heirs about religion.
- In islamic countries where sharia is followed inheritance rules are applied after death.
- But in non islamic countries one may have to follow the rules of the land. After death inheritance rules may not be applicable and importance is given to the will, in such cases it is a must for a muslim to make a will stating that his property be distributed after death as per islamic law of inheritance and if required mention the which madhab to be followed.
- In a non islamic country: If one knows that there are no heirs surviving person can make a will naming the beneficiary so that property may not go the government treasury as there is no Baithul Maal in that country.

Lesson 15

Work up of a case

Common problems and their solutions, as well as work up of a case is described.

Special case - Himariya

The case was brought to Umer (R.A).

A lady died leaving H, M, 2 Bu, 2Bf

As per the general rule Ummer divided the share as:

$H = 1/2$, $M = 1/6$, $2Bu = 1/3$, $2Bf = \text{balance} = \text{Nil}$.

Full brothers did not get any share whereas uterine brothers got a share.

Naturally brothers full got upset.

They requested for a revision of the case.

Here brother full had 2 advantages over uterine brothers.

1. Their relation to the deceased was nearer than the uterine brothers. They had father and mother common compared to uterine where only mother is common.
2. If not superior as above they claimed that they should be considered at least equal to brother uterine because mother is the same.

They requested them to consider them as Brother Uterines based on this.

Umer (RA) accepted the argument and revised the verdict.

$H = 1/2$, $M = 1/6$, $2Bu + 2Bf = 1/3$

Maliki and Shafi accept this but Hanafi and Hambali reject this.

Son's Son - No Share - Criticism

Some critics if Islam and even some Muslims raise this subject very often.

Problem: when one son B1 of father A dies and another son B2 is alive and later on when the father A dies predeceased son's children (B1's children) do not get any property. Is it not inhuman? especially when Islam gives utmost importance to orphan children?

Yes the situation arises. but Islam has given multiple solutions to the problem. Hence the problem is because of not understanding Islam and not implementing Islamic rules

Solutions:

1. Father can gift the son's son property during his life time itself.-importance of charity to orphans and close blood relatives.
2. It is father's duty to look after his predeceased son's son- importance of family ties in Islam.
3. Father can make waseeyat up to 1/3 of property.- Must on muttaqeen.
4. After father's death even the living heirs can donate a part of the property. – Sura Al Nisa':8

Quran and sunnah calls upon believers to take care of the near relatives and orphans:

وَأَعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَبِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْجُنُبِ وَالصَّاحِبِ بِالْجَنْبِ وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُكُمْ إِنَّ اللَّهَ لَا يُحِبُّ مَن كَانَ مُخْتَالًا فَخُورًا

Serve Allah, and join not any partners with Him; and do good- to parents, kinsfolk, orphans, those in need, neighbours who are near, neighbours who are strangers, the companion by your side, the wayfarer (ye meet), and what your right hands possess: For Allah loveth not the arrogant, the vainglorious;

{Quran 4:36}

يَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلْ مَا أَنْفَقْتُمْ مِنْ خَيْرٍ فَلِلْوَالِدَيْنِ وَالْأَقْرَبِينَ وَالْيَتَامَى وَالْمَسَاكِينِ وَابْنِ
السَّبِيلِ وَمَا تَفْعَلُوا مِنْ خَيْرٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

They ask thee what they should spend (In charity). Say: Whatever ye spend that is good, is for parents and kindred and orphans and those in want and for wayfarers. And whatever ye do that is good, -(Allah) knoweth it well.

{Quran 2:215}

لَيْسَ الْبِرَّ أَنْ تُوَلُّوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ مَنْ آمَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ
وَالْكِتَابِ وَالنَّبِيِّينَ وَآتَى الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَى وَالْيَتَامَى وَالْمَسَاكِينِ وَابْنِ السَّبِيلِ وَالسَّائِلِينَ
وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ وَآتَى الزَّكَاةَ وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا وَالصَّابِرِينَ فِي الْبَأْسَاءِ
وَالضَّرَاءِ وَحِينَ الْبَأْسِ أُولَئِكَ الَّذِينَ صَدَقُوا وَأُولَئِكَ هُمُ الْمُتَّقُونَ

It is not righteousness that ye turn your faces Towards east or West; but it is righteousness- to believe in Allah and the Last Day, and the Angels, and the Book, and the Messengers; to spend of your substance, out of love for Him, for your kin, for orphans, for the needy, for the wayfarer, for those who ask, and for the ransom of slaves; to be steadfast in prayer, and practice regular charity; to fulfil the contracts which ye have made; and to be firm and patient, in pain (or suffering) and adversity, and throughout all periods of panic. Such are the people of truth, the Allah fearing.

{Quran 2:177}

وَاتِ ذَا الْقُرْبَى حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ وَلَا تُبَذِّرْ تَبْذِيرًا

And render to the kindred their due rights, as (also) to those in want, and to the wayfarer: But squander not (your wealth) in the manner of a spendthrift.

{Quran 17:26}

فَاتِ ذَا الْقُرْبَىٰ حَقَّهُ وَالْمِسْكِينَ وَابْنَ السَّبِيلِ ذَلِكَ خَيْرٌ لِلَّذِينَ يُرِيدُونَ وَجْهَ اللَّهِ وَأُولَٰئِكَ هُمُ الْمُفْلِحُونَ

So give what is due to kindred, the needy, and the wayfarer. That is best for those who seek the Countenance, of Allah, and it is they who will prosper.

{Quran 30:38}

لِّلرِّجَالِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا تَرَكَ الْوَالِدَانِ وَالْأَقْرَبُونَ مِمَّا قَلَّ
(مِنْهُ أَوْ كَثُرَ نَصِيبًا مَّفْرُوضًا 7)

(وَإِذَا حَضَرَ الْقِسْمَةَ أُولُو الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينُ فَارْزُقُوهُمْ مِنْهُ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا 8)
(وَلْيَخْشَ الَّذِينَ لَوْ تَرَكَوْا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَافًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ وَلْيَقُولُوا قَوْلًا سَدِيدًا 9)

7. From what is left by parents and those nearest related there is a share for men and a share for women, whether the property be small or large,-a determinate share.

8. But if at the time of division other relatives, or orphans or poor, are present, feed them out of the (property), and speak to them words of kindness and justice.

9. Let those (disposing of an estate) have the same fear in their minds as they would have for their own if they had left a helpless family behind: Let them fear Allah, and speak words of appropriate (comfort).

{Quran 4:7-9}

Hadeeths

Anas (RA) reported as Prophet(SAS) saying Anyone who is pleased that his sustenance is expanded and his age extended should do kindness to his near relatives.

Abdulla bin Masoud and Abu Huraira quoted that Prophet (SAS) said that giving sadaqa and charity to a destitute fetches one reward but that given to ones close relative fetches double reward from Allah.

Best of charity is the one given to ones own kith and kin.

In some conditions few heirs may not get the shares either due to them being excluded or due to property getting exhausted. Following are few examples of such cases:

1. Son's son if son is there.
2. Son's daughter if 2D.
3. Brothers/sisters if TGF (Hanafi).
4. Daughter's children whereas son's children get.
5. Brothers/sisters if son/father is there.
6. Bc if Bf is there.
7. Sc if 2Sf is there/Bf /Sf+D.
8. Sister's children.
9. Brother's daughters.
10. Al Himariya case - H, M, 2Bu, Bf.
11. Many other cases where shares get exhausted with no balance.

Sad Affairs

1. Single family system with head of family concept lost.
2. Each one now thinks like copying others concept : self- wife – children
3. Close blood ties, relations neglected.
4. Inheritance rules gone to dust bin even from well learned people.
5. All the above has given rise to –dowry system, unwillingness to give the property to brothers and others if situation arises, Main reason being loss of Eemaan.
6. Finding loopholes to protect one's property from going to heirs.
7. Raising unnecessary questions about Islamic law of inheritance without actually knowing them.

Sad Affairs - Answers

1. Learn the law of inheritance and spread among people.
2. Educate people about inheritance laws and seriousness of the problem if not implemented.
3. Spread the message among common people and learned people.
4. To remember that money and property belongs to Allah.
5. Spend and distribute as per His rules.

Common problems

1. Ownership Shares are not specified.

2. Property is not divided after death.
3. Dowry has become routine affair.
4. Misconception that if dowry is given no share for daughters.
5. Haram is consumed unknowingly.
6. Orphan's wealth is consumed unknowingly.
7. Gifts are given to avoid property going to heirs.

Common problems - Solutions

1. Specify Ownership Shares in joint ownerships even if it is in the same family.
2. Divide the property after death.
3. Discourage Dowry and educate people that it is unislamic and encourage Mehr.
4. Educate that Haram may be consumed unknowingly.
5. Educate that Orphan's wealth may be consumed unknowingly.
6. Educate that if Gifts are given to avoid property going to heirs it is prohibited.

Work up of a case

After learning the Laws of inheritance it is time to apply it into practical use. When a person dies:

1. Funeral expenses to be met with,
2. debts of the person is to be cleared from his assets,
3. waseeyat has to be implemented not exceeding 1/3.

After allotting the above find out the remaining property and wealth. That is to be given to the Heirs.

How to find out?

1. You can use the Ready Reckoner (/pdf/ReadyReckoner.pdf) available in the website to find out the heirs and their shares.
2. You can use the Flowchart (/pdf/Flowchart.pdf) available in the website to find out the heirs and their shares.
3. Or, you can from what you have learnt till now from this presentation find the shares. I shall discuss the third option. Other two are easy to learn.

1. Write down who is alive among balance heirs after excluding one by one.
2. Next write down the fixed heirs and the shares against each of them. Only those who are alive are considered.

3. Now calculate the shares allotted and the balance remaining.

Now add the fixed shares. You can make 24 as the common denominator for easy calculations. Now three possibilities are there.

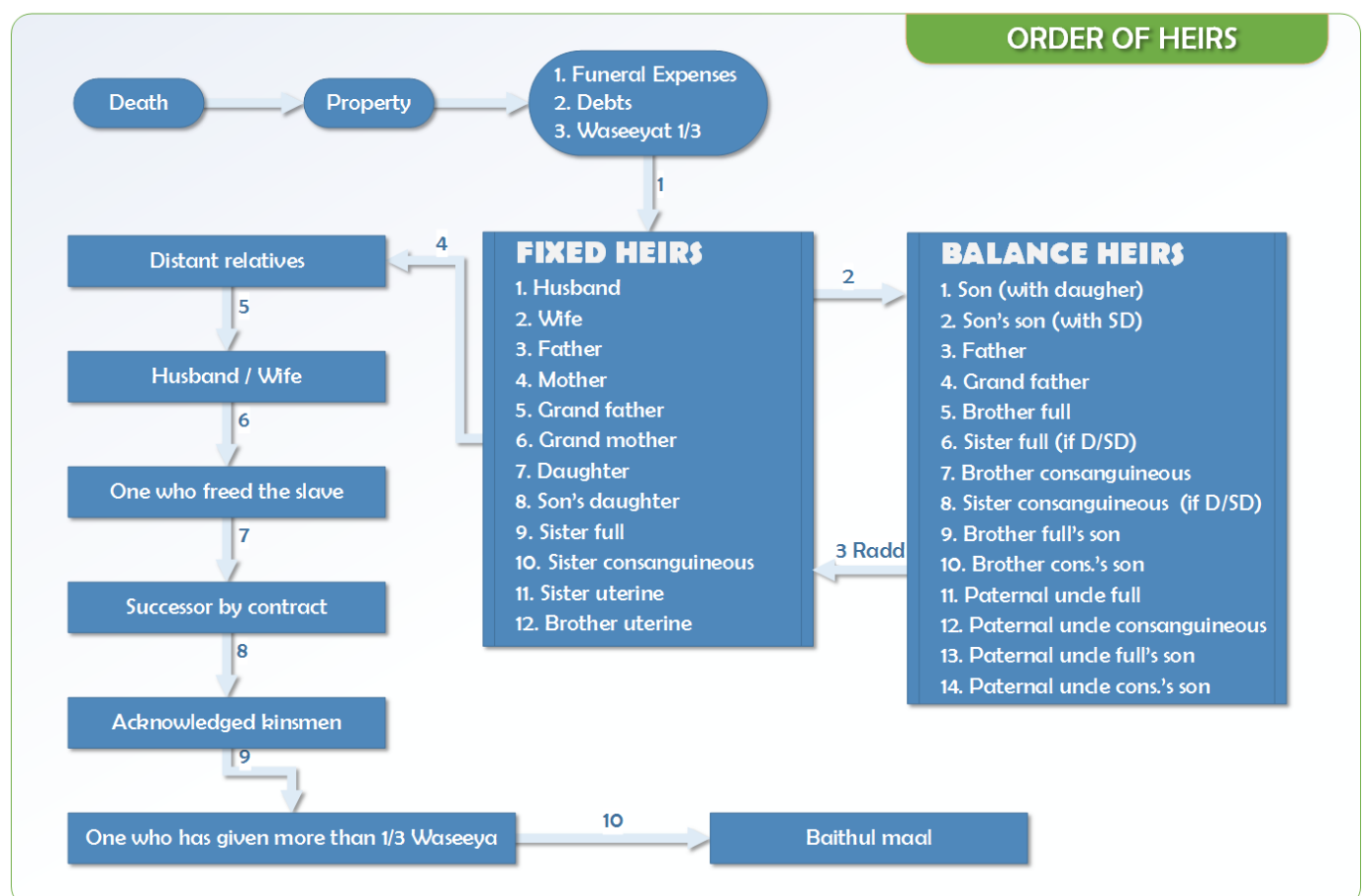
1. After adding up shares the total is less than unity. Find out the balance share left. Balance goes to those who are eligible for balance share. If males and females are there for balance then divide the balance with each male getting double of one female. If nobody in the balance heirs list then consider Radd. Already discussed.
2. After adding fixed share total becomes unity or share adds up to 1 then there is no balance left. Even if there are eligible balance heirs they do not get a share.
3. After adding fixed share total becomes more than unity or share adds up to more than 1. There is no balance left but also share value is more than 1 and is not enough to distribute among fixed heirs. Here principle of Awl is applied and shares divided.

If nobody in the balance heirs list then consider Radd excluding Husband or Wife.

If nobody in the fixed heirs and balance heirs except H/W next in the list is Distant Relatives take the balance.

If no Distant relatives then consider H/W for Radd.

Others in the eligible list in the absence of above is listed below image.



Another easy way of calculation is to convert into percentage. Eg; $1/6$ when converted into percentage becomes $1/6 * 100 = 100/6 = 16.67\%$

This becomes easy for calculations. But be careful when you encounter Awl or Radd.